Cambridge University Press et al v. Patton et al
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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

CAMBRIDGE UNIVERSITY PRESS, et al.,	)	
Plaintiffs,	)	
vs.	)	Civil Action File No. 1:08-CV-1425-ODE
MARK P. BECKER, in his official capacity as Georgia State University President, et al.,	)	
Defendants.	)	

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Videotaped deposition of JAMES DANIEL PALMOUR, taken on behalf of the plaintiffs, pursuant to the stipulations contained herein, before Teresa Bishop, RPR, RMR, CCR No. B-307, at 104 Marietta Street, 6th floor, Room 3, Atlanta, Georgia, on Thursday, April 23, 2009, commencing at the hour of 8:54 a.m.

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STACEY LUTZKER,
KENNITH DRAKE, VIDEOGRAPHER

- - -

THE VIDEOGRAPHER: This will be the videotaped deposition of James Palmour, taken by the plaintiffs in the matter of Cambridge University Press versus Mark B. Becker in his official capacity as Georgia State University president et. al.

The date is April 23rd, 2009. We are on the record at 8:54:26.

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(Disclosure was made pursuant to O.C.G.A. Annotated 9-11-28 (c) and (d) and 15-14-37 (a), (b) and (c).)

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JAMES DANIEL PALMOUR,

having been first duly sworn, was examined and testified as follows:

EXAMINATION

BY MR. LARSON:

Q. Good morning, Mr. is it Palmour or Palmour?

A. Palmour.

Q. Thank you for coming in this morning. Could you just state and spell your name for the record so we have it?

A. James J-A-M-E-S, Daniel D-A-N-I-E-L, Palmour P-A-L-M-O-U-R.

Q. Mr. Palmour, my name is Todd Larson. I'm from the law firm of Weil, Gotshall & Manges in New York. And we're representing Cambridge University Press and Oxford University Press and Sage Publications in this action.

Have you been deposed before?

A. No.

Q. Let me just give you a few ground rules. Your counsel probably told you some of these, but just so we're clear.

I'll be asking questions today and just would expect you answer truthfully and completely. Please answer verbally. Nods although we do have a videotape, nods don't show up in a written transcript.

If you don't understand a question, just ask me to clarify and I'll be happy to do so. If you need a break at any point, just let me know.

A. Okay.

Q. I would just ask you don't do that while there's a question pending. But after we've completed the question and answer.

If your counsel objects to my questions, you know, throughout the day, that's part of the process and you can go ahead and answer unless you are instructed not to by your counsel.

Let me ask you this. Did you prepare in any

way for the deposition?
A. We had a meeting yesterday.
Q. So you met with counsel?
A. Yes.
Q. How long was that meeting?
A. Between three and four hours.
Q. Did you review documents or records as part of the preparation?
A. A few, yes.
Q. Were those provided by counsel?
A. Yes.
Q. Okay. Did you speak to anyone at GSU -- by GSU, I mean Georgia State University -- about the deposition?
A. Only told my boss that I was going to be doing this.
Q. Okay. And did you take a look as part of this process at the ERes system or EReserve system at GSU?
A. Well, I've been working and supporting the ERes system in the past.
Q. Did you do any review of the system specifically in preparation for the deposition?
A. Yesterday I did look to see some of the statistics, usage statistics, things like that.
Q. How did you do that?

A. Logged in as administrator and ran a report.
Q. And what time frame did you run that report for?
A. Around 4:30 p.m. yesterday.
Q. I'm sorry. Let me step back. And we'll talk about this more in depth a little bit later.
But the reporting function on ERes allows you to enter date parameters, that is correct?
A. Yes.
Q. And what date parameters did you enter yesterday when you ran a report?
A. I looked at the entire history and a summary of the document usage and the growth of usage of the system.
Q. Did you print out the results of that or save them in any way?
A. No. No.
Q. Did you search your files to produce documents for this litigation?
A. Yes.
Q. Who asked you to do that?
A. I guess Cynthia Hall and GSU legal affairs office.
Q. What did you search for?
A. All my e-mail regarding ERes and coursepacks

and all my computer files on disk regarding ERes and coursepacks and all my paper files regarding ERes and coursepacks.

Q. With your e-mail, what system do you use?

A. GroupWise by Novel.

Q. And how did you search your e-mail?

A. There's an option called open archives which goes back I think two or three years and I did a search on various key phrases that I was instructed to use. And I saved the results in a -- and each result was saved in a separate file.

Q. Those were saved in Word files, is that right?

A. I'm not sure what type of files, what format that was.

Q. Do you know whether that search pulled any attachments to your e-mails as well?

A. There would be attachments on some of them, yes.

Q. So to the extent an e-mail had an attachment, it should have been produced as part of the search you made?

A. Yes. Yes.

Q. And do you know whether those archives are two years or three years?

A. I don't recall. It's a running archive, so

the earliest date changes every day.
Q. Does that -- all your e-mails are saved by that program?
A. All of them that I don't delete, yes.
Q. There's no auto deletion or anything like that?
A. There is and some people have that turned on, but I did not have it turned on.
Q. Any deletion if your e-mail box grows over a certain size, anything like that?
A. Right. Right. If your e-mail box exceeds its limit then you have to go in and delete some yourself.
Q. That's the auto deletion function you mean or is that something separate?
A. That's something separate. I think there's a function that lets you automatically have it delete anything over a certain date.
Q. Let me just ask. Have your files -- are you aware of your e-mails having been deleted because you were over the size limit for your mailbox?
A. No, I'm not aware of that.
Q. And what is your practice -- you mentioned before you would have everything if you hadn't deleted it yourself. What is your practice with respect to saving and deleting e-mails?

A. I will delete most of everything I think is junk e-mail, and I delete some things I don't think I'll be needing.

Q. Were you asked ever to preserve files for this litigation?

A. Yes, I was.

Q. When was that?

A. I don't recall the exact date.

Q. Okay. Was that by Ms. Hall?

A. Yes.

Q. Okay. Was that written or --

A. Yes.

Q. Could you tell me your educational background?

A. I have a bachelor's degree in information systems, bachelor of business associate degree from Georgia State University. And I also had a bachelor's degree from University of Georgia in international business.

Q. So your training in information technology, for lack of a better word, is from this degree at GSU?

A. Yes.

Q. Do you have any certifications or anything like that?

A. No.

Q. Have you taken any law classes?

A. I took one business law class.
Q. Where was that?
A. At Georgia State.
Q. When was that?
A. I don't recall exactly. It's probably around 1980.
Q. Have you had any copyright training?
A. Not any formal training classes. I've just read what the Board Of Regents has on their web site.
Q. Does that include what was on the Regents' web site, you know, prior to the new policy that was recently enacted?
A. Yes.
Q. Anything else that you've read or consulted with regard to copyright law?
A. Well, I've read some various magazine articles.
Q. How about any other forms of IP, you know, patent or any training on those topics?
A. No.
Q. Did you work someplace else prior to coming to Georgia State?
A. Last place I worked before Georgia State was the Tender Box Pipe And Tobacco store at Perimeter Mall.
Q. And when was that?

A. Well, that was for about two or three years after I got out of University of Georgia in the last big recession. Couldn't find much work other than retail.

Q. When did you start at Georgia State?

A. Full time staff was 1982, August 13th.

Q. And I don't want to make this a memory test, but if you could just tell me the positions you've held at GSU as best as you can remember, that would be appreciated.

A. Well, as far as titles go, I started as a programming, programmer level 1 and I moved to programmer level 3. And then they had a position called system designer level 1 and then system designer level 2. And then I think after that I became an information systems specialist.

Q. Is that your current title?

A. Yes. Information system specialist lead.

Q. When did you take your current position?

A. When did I get that title?

Q. Yes.

A. I don't recall. It was probably late 90s, I guess.

Q. Okay. In your prior positions that you described, the programmer and systems designer, did you have opportunity in those positions to deal with copyright issues at all?

A. Yes, I did. My initial duties were working with software that the faculty would bring in and want installed on the main frame. But after about two years I was assigned to applications dealing mostly with high volume printing mostly coming off the main frame printer. And working with applications like student rolls, registration cards, the university catalogue courses. And I got involved with using typesetting software on the main frame computer.

And then over time we gradually switched from main frame computers to client server environment, a network. And in general switched from printing to putting things online on the web. And one of the printing applications services we provided was a coursepack printing service. And I provided that service.

Q. And that service involved dealing with copyright law?

A. Yes.

Q. How so?

A. Well, if anything was copyrighted I obtained the copyright permission and paid the royalties to the publishers and assembled the materials and arranged to have them printed out and sold through our university bookstore.

Q. And this was in a prior position to your current one?

A. Well, I'm still providing that service. But it's --

Q. Okay.

A. -- become less and less over the years.

Q. Let me just ask. You were in the information systems and technology department, is that right?

A. Yes.

Q. Commonly called IS&T?

A. Yes.

Q. And you're in a group within that department known as LSS?

A. Yes, I was. But that's been disbanded.

Q. Tell me about that.

A. Well, a year ago there were five people in LSS and the two top people retired, the director and the manager.

Q. Just tell me who they were, if you would?

A. The director was Phil Williams and the manager, really wasn't my manager, was Randall Cravey.

Q. Okay.

A. And the main focus of that group was to support the state wide online library systems for the

Board Of Regents for all the University System.

So when they left the person at Board Of Regents in charge of that decided to move that service to Athens and the other two positions were transferred to Athens as of April 1st of this year. So that left me. And my focus was mainly on supporting our local library. And we got a new head librarian and she decided that she would prefer to have most of her own staff providing their own IT support. And so they've essentially done away with the LSS group.

Q. So are you still within IS&T?

A. Yes. I'm in a medium-sized group called the UATS right now.

Q. What does that stand for?

A. University academic technology support.

Q. And who do you report to?

A. For my current project I'm working with Paula Christopher who handles the WebCT system.

Q. So are you working with WebCT system now?

A. Yes.

Q. And how long have you been doing that now?

A. Only about a month.

Q. So do you report to Ms. Christopher?

A. On WebCT matters, yes. The head of UATS is Michael Russell.

Q. Michael Russell?
A. Yes. R-U-S-S-E-L-L.
Q. And who does Mr. Russell report to, do you know?
A. He reports directly to J. L. Albert.
Q. And do you have any employees or folks who report to you?
A. No.
Q. So do you still interface with the library at all?
A. A little bit. At the time of the lawsuit I was providing the scanning services for ERes. But they took that over in January.
Q. When you say they --
A. The library staff.
Q. Do you know the names of the persons who are doing that?
A. Denise Dimsdale and Melia Cargile. And they have a student assisting, also, or several.
Q. Are you still involved with the coursepack?
A. Yes.
Q. So what is it with WebCT and your support of WebCT, what are you doing?
A. I'm helping to migrate from version 3 to version 8.

Q. And what's the reason for that migration?
A. It's -- well, as I understand it one company bought another one, I think Blackboard bought WebCT and they have a new version that's so totally different that it has to be on different servers and all of the materials have to be migrated over.
Q. Now, is WebCT something that's offered locally or --
A. It's offered state wide and the servers are in Athens and I believe controlled by the Board Of Regents.
Q. So to the extent Georgia State professors use WebCT to provide materials to their students, the servers that host that material are in Athens?
A. Yes.
Q. Okay. And so what is it that's done locally by you and Ms. Christopher?
A. Well, what I -- all I'm doing is just moving files from one server to the other and making sure all the materials that they had on the old server are available on the new one.
Q. And by files and materials, you mean course materials or do you mean the software for the --
A. No, course materials. Mostly Power Point files and Word documents, online tests, PDF files.
Q. I'm sorry if I'm missing something. I thought

you said those were stored on servers that were in Athens?

A. That's correct.

Q. So those are servers that you're working on?

A. Yes, remotely.

Q. Are you involved at all with the ongoing operation of the system, WebCT?

A. Yes.

Q. And that's also called ULearn, is that right?

A. I believe Georgia State has decided to call that product ULearn. I don't know if anybody else is calling it that or not.

Q. And is WebCT the name of the software?

A. WebCT, I think WebCT was the old software. I think when Blackboard bought them they -- I think they wanted to call them something else like Vista, I don't know for sure. But Georgia State is calling it ULearn.

Q. Is that what it's called state wide, do you know?

A. I'm not sure.

Q. You mentioned that the files include I think you said Power Points and Word documents and tests and things like that?

A. (Nods head affirmatively.)

Q. Are you aware of whether it also includes reading materials for students?

A. I'm not sure. I haven't been examining every file for content.

Q. Have you examined them at all?

A. Some.

Q. And what have you found?

A. It's mostly Power Point and Word documents. I saw some PDF files, but I did not open them.

Q. Did you know whether those were reading materials?

A. I do not know.

Q. Going forward will your involvement include any ongoing monitoring of what the materials are on the system?

A. I haven't been instructed to do that.

Q. So right now you're just doing this file transfer process?

A. Yes.

Q. So I just want to recap and make sure I've got it all.

So you currently then are working on WebCT and you currently are still working with coursepacks, hard copy coursepacks?

A. Yes.

Q. Other duties that you have now?

A. We have another system called the electronic thesis and dissertations server or service which contains an online PDF copy of every thesis and dissertation from Georgia State. And I provide some support for that.

Q. What type of support?

A. I run a report each semester. I monitor the help information that comes in. I've had a couple of requests to change a couple things on the system.

Q. Do you work with something called D Space?

A. There is another product called D Space. And it's called an institutional repository.

My involvement with D Space started about a year ago when my boss retired. He turned that over to me. But the library was not very satisfied with it, with the product, and they since decided to switch to a different product.

Q. When you say institutional repository, what do you mean?

A. It's a way to archive anything including an entire web site and make sure that all of the URls are permanent and persistent and all of the content material is maintained in its original form.

Q. So would that -- I'm sorry.

A. And it also ties in with the Voyager online catalogue system that all the libraries in the state use.

Q. So is that used or was it used to archive web sites across the university?

A. It was really on a trial basis. And I only saw a few actual production type things on there.

Q. For example if a faculty member had a personal web site, I should say a web site on the Georgia State Internet site, would that have been archived by this product?

A. Probably not. No.

Q. Were library web sites at GSU archived?

A. I don't know. The only thing I recall that looked finished in production was for the Andrew Young School Policy Studies and they had a collection of newsletters on there.

Q. Let's talk about coursepacks a bit if we could. You said you're involved in the provision of coursepacks for students?

A. Yes.

Q. And how long have you been involved with that?

A. I guess since about '95.

Q. And as you said, that reaches back to a previous position to your current one?

A. Yes.

Q. What is a coursepack?

A. A coursepack is a collection of book chapters or journal articles or instructor's notes or class materials combined together, printed together and sold as a unit through the Georgia State University Bookstore.

Q. Let me ask this. Do you distinguish in your work between supplemental and required reading for a course?

A. For the electronic reserves up until 2004 I was the main faculty interface for electronic reserves, and as such they would -- faculty would provide me with materials to put on the electronic reserves up until 2004. And we had a -- a form that they had to fill out which included a checklist for determining fair use for educational purposes. And one of the questions was is the content that you're -- material that you're using of a small amount in relation to the total amount of material being used for the course.

So I assume that indicates that they would need to affirm that what they're using is supplemental material, I suppose you could call it that.

Q. Supplemental meaning supplemental to other material being used?

A. Yes. Yes.

Q. Now, do you mean supplemental to mean it wasn't required by the professor to be read?

A. I don't know. I did not always ask the instructors what was going to be required reading or not.

Q. I just want to make sure we have clear terminology. This material could have been supplemental and required in terms of the way you used those phrases?

A. It could have been.

Q. Supplemental to other reading in the course but nonetheless required?

A. Yes. Yes.

Q. And to your knowledge do coursepacks include required reading for a course?

A. I think some do and some don't.

Q. And how do you know?

A. Well, I can tell by sales that if I try to determine how many packets to print to sell I look at the number of students enrolled per class and if it's not required then I won't sell as many course packets for the class.

Q. Do you ask the professor?

A. I never really did --

Q. How do you know --

A. -- as a habit. I guess I've heard in response from some of the professors that that was the case. Sometimes they would tell me this is not required so I won't need the full enrollment number.

Q. And if you were aware through some way that it was required you would order a coursepack essentially for everyone in the class?

A. Generally I would assume that it was required.

Q. Let's go back just for a second to what you were telling me about the EReserve system pre-2004.

You said there was a requirement that the amount put on EReserve was small, small in relation to the total amount used for the course, was that right?

A. Yes.

Q. So it wasn't a small amount in relation to the work from which it was taken?

A. It was also stipulated that it should be a small amount in relation to the total work from which it was taken.

Q. And do you have an understanding with respect to the first one, the relation between the excerpt and the total used in the class, do you have an understanding that that was a requirement that is necessary to comply with copyright law?

A. I believe that was one of the requirements.

Q. Okay. Well, one of the requirements of the policy makers at Georgia State or a requirement of the copyright law?

A. Of Georgia State and the Board Of Regents.

Q. Do you have a view, though, whether that's a requirement for EReserves postings to be compliant with copyright law?

A. I'm not sure about the specifics of the law on that.

Q. Is that requirement still in place?

A. I'm not sure for the ERes. The library staff took over the electronic reserves.

Q. Just recently though, correct?

A. Well, they took it over the first semester of 2004. The library staff took over providing the faculty interface and the decision on content and the interpretation of copyright policy and dissemination of that information to the faculty.

Q. And after that point did you have any reason to do any analysis of works that were submitted for copyright compliance?

A. No. When I was doing scanning from 2004 up until this January I would look to see if I could tell if what I was being asked to scan was over our 20 percent limit. And if I noticed that, then I would inform the library.

Q. Was that the only check you did?
A. Yes.
(Plaintiffs' Exhibit No. 29 was marked for identification by the reporter.)

BY MR. LARSON:
Q. Do you recognize this document?
A. No.
Q. I'll represent to you this was produced as part of the production of documents in this case.
A. This looks like something that my boss would have been asked to provide.
Q. But you don't recall seeing it?
A. I don't recall.
Q. Take your time to look at it if you need to. I want to focus you on a couple small sections.
If you could turn to page 3. Take a look down at the bottom of the paragraph starting for several years.
A. Right.
Q. And can you just read through that set of bullet points to yourself of tasks that are listed there?
A. Right, okay.
Q. Is that an accurate summary of your tasks with

respect to coursepacks?
A. For coursepacks, for printed coursepacks, yes. But not for electronic reserves.
Q. I understand that. And we'll talk about that. Is it still accurate as to your current practices?
A. Yes.
Q. Anything that's missing?
A. Well, I would -- I would assume that included in that would be in the copyright management service, would be making sure the instructors understand what they're allowed to use.
Q. Okay. Tell me about that. What is involved with that?
A. Well, I guess just making sure what is copyrighted and what isn't. But other than that, I can't think of anything else right now.
Q. So you assist professors in determining whether the works in the coursepacks implicate copyright in some way?
A. Well, I suppose one of my duties would also be to evaluate the materials for -- to determine if copyright laws are violated or not.
Q. And how do you do that?
A. By looking at it and telling -- if it looks like it's something that's been published, then I would

require bibliographic information to make sure what the course is.

Q. So if it looks like it's published, what do you do?

A. Then I try to get copyright permission.

Q. Let's just -- tell me about the process of your putting a coursepack together so we can walk through this.

How does it generally happen?

A. Well, generally the faculty member would bring the materials by and I would examine the materials and determine what needs copyright permission. And first use Copyright Clearance Center to see what is available --

Q. I'm going to step in if I could. I want to just ask you a couple questions about the early steps.

Would the faculty come to you or do they bring you books?

A. Sometimes.

Q. Do they bring you printouts of excerpts or articles?

A. Sometimes.

Q. Any other way that they bring you the materials for the coursepack?

A. That's about it.

Q. Will they give you just a name or a title and ask you to make a copy for them?
A. What do you mean?
Q. I mean, will they say I want a chapter of this particular book, can you get it from the library and make a copy for me?
A. I haven't been doing that for coursepacks because coursepacks are separate from what the library does really, so usually they will go to the library and get the copy and bring it to me for coursepacks.
Q. Okay. So do they fill out a form?
A. Yes.
Q. And what's on that form?
A. I don't recall everything in particular. For the last several years we've just been doing the same ones over and over. I haven't been requiring an E form every semester for a repeated same coursepack.
Q. You mean you've been providing the same coursepacks over and over?
A. Yes.
Q. That's repeat instances of courses that run year after year?
A. Yes.
Q. So have you done any of these forms recently then?

A. Not for coursepacks, no.
Q. When's the last time someone filled out a coursepack?
A. I don't recall.
Q. Do you know whether you produced any of those forms in response to the document requests for this litigation?
A. I think I probably did.
Q. And to the extent you did, those would have been from a few years back, am I understanding that right?
A. The last time it was used or modified, yes.
Q. Can faculty submit a coursepack request to you electronically through e-mail or on a web site?
A. I think we had an online form that they could fill out, submit.
Q. You had one when?
A. What was the question?
Q. When did you have this online form that you just mentioned?
A. I don't remember what year it was.
Q. It's been a while?
A. Yes.
Q. And again is that because the same faculty tend to be using the same coursepack over and over?

A. Yes. Yes.
Q. Okay. Do you have something called the book adoptions web site?
A. I'm not familiar with that.
Q. You are not familiar with that?
So a faculty member comes to you with copies of an article or a book from which they want something included in a coursepack. Tell me then how you -- what you do with respect to determining whether you need to get copyright permission.
A. If it looks like something that's been published in a book or journal then I assume that it needs copyright permission unless the instructor tells me they already have permission or can show me that they do.
Q. Does that happen that they'll tell you that they've got permission?
A. A couple of times it has.
Q. And did they show you something on those occasions to show that they had permission?
A. I have been shown things in the past.
Q. What would they show you?
A. I believe I've seen a letter from a publisher saying the faculty member had the right to use it.
Q. But if they don't tell you that they've got

permission, then your assumption is if it's published it needs to have copyright permission?

A. Yes.

Q. And is that independent of whether the reading excerpt is a required reading or not for the course?

A. Yes.

Q. Is there any page limit you apply or, you know, like the 20 percent test you mentioned for coursepack?

A. For coursepack printing?

Q. Uh-huh.

A. No, that's up to the publisher.

Q. So even if a faculty member were to come in with a two page excerpt or something, that you would still --

A. Yes, I would assume it would need copyright permission.

Q. Do you do any sort of fair use analysis of the excerpts to see whether they might not need permission?

A. Not for coursepack printing. There are some things that are public domain.

Q. Like what?

A. Oh, I think there's a statement of law that's used for some law coursepacks.

Q. Just while we're on this document, the third bullet down in the section we're looking at says the invoicing of area bookstores for coursepacks sold.

A. Right.

Q. So do you sell the coursepacks to bookstores and they sell them to the students?

A. Yes.

Q. So why doesn't the faculty member just go to the bookstore directly and have the bookstore to take care of that?

A. Some of them do and the bookstore refers them to me. The bookstore doesn't have its own printing operation.

Q. Who does the printing?

A. There's a group in IS&T that does our printing.

Q. And that's at your request or direction?

A. Yes. My request.

Q. Do you use other books stores besides the GSU Bookstore?

A. In the past we have sold to Georgia Bookstore but not in years.

Q. What's Georgia Bookstore?

A. It's a private bookstore off campus. And I think there was one or two semesters years ago that we sold some to the Park Place Bookstore, which is another private bookstore off campus. But for the last several years they've only sold to Georgia State University Bookstore.

Q. Is there a reason for that?

A. It's mostly the instructors would prefer it being a Georgia State University bookstore.

Q. And that's a bookstore that's owned by the university?

A. It's not owned by the university. It's owned by a company called Follett, F-O-L-L-E-T-T. It's a private company.

Q. So it's the official Georgia State Bookstore but privately held?

A. Yes. Right.

(Plaintiffs' Exhibit No. 30 was marked for identification by the reporter.)

BY MR. LARSON:

Q. Mr. Palmour, do you recognize this e-mail?

A. Yes.

Q. Was this sent by you?

A. Yes.

Q. You can put that one aside.

So up until a couple months ago you worked with EReserves as well?

A. Yes.
Q. Just tell me what EReserves is.
A. Electronic reserves is a more modern way of doing the old fashioned library reserves process where a book would be put on hold for a group of students in a class and they could come in and look at the book and read a chapter or take the book to the copy machine and copy it, copy a chapter.
And instead of doing that we scan the chapter in and put it online and make that available to the students in the class based on the password restriction.
Q. So it's a method of providing course reading materials to students, is that right?
A. Yes.
Q. Do you know, does EReserves contain required course readings?
A. I would assume so.
Q. Do you ask the faculty members whether a reading that they submit is required or not?
A. Well, I don't deal with the faculty any more since spring semester of 2004.
Q. When you say you -- I'm sorry. Go ahead.
A. No.
Q. You said you assume so. What's that assumption based on?

A. Well, I would see the sibilus for the classes and I believe sometimes that would refer to some of the readings on electronic reserves as required readings.

Q. And that was -- when you say you would see the sibilus, was that up until -- as part of the process up until the last couple of months when you stopped participating?

A. Right. Right. Because I would scan it in and sometimes I would need to follow the sibilus to make sure I got all the copies of what they wanted scanned in.

Q. So let's just walk through the process of how we work with a faculty member posting things on EReserve.

A. Now or in 2004 or '5 or '6?

Q. No, the process, I recognize there maybe be some changes, but the general process.

A. The general process.

Q. Yeah, the general process up until -- up until --

MR. ASKEW: Let's let him finish his question.

THE WITNESS: Yeah, okay.

MR. ASKEW: Why don't you restate the question so it's clear for the record.

BY MR. LARSON:

Q. Walk me through the process, if you would, of how the EReserves submission by faculty worked when you were involved in it last year?

MR. ASKEW: Last year you say?

MR. LARSON: Yeah.

THE WITNESS: As I understand it a faculty member could submit a list of readings that they wanted online to the library staff.

The library staff could go to their collections and locate the books required. They could also review their collections of journal articles that are available online that they already have and see if what they want to use is in that collection already.

The library staff would review the materials requested to make sure that they complied with copyright restrictions. And then they would bring those materials to me for scanning.

And I would scan in the materials and clean them up and create a PDF file and copy that PDF file over to a staging area on the ERes server. Then the library staff

would then take that PDF file and make it
available on the faculty member's course
web site on ERes.

BY MR. LARSON:

Q. So if there was no scanning to be done for a particular course you wouldn't --

A. Correct, I would not be involved.

Q. You wouldn't get involved. And the request came to you from the library staff?

A. Yes.

Q. What did you make your copies from, what did you scan?

A. Usually originals that the library staff would pull from their shelves. Sometimes it would be xerox copies.

Q. And do you know whether those xerox copies were made by the library staff or by the faculty member?

A. I do not know for sure.

Q. Okay. And then when you got the book from the library, the books, how would you know what to copy?

A. They would have a -- usually a -- just a post-it note attached to the book with a page range for each book.

Q. And you mentioned before you would see a sibilus. Would they also send you a sibilus for the class?

A. Sometimes there would be a sibilus that would include a list of the page ranges that they wanted.

Q. Okay. Now, are you aware that the professor would fill out a form with the library when they submitted their request?

A. I'm not sure. I can't recall exactly the way that they were doing it when they took it over.

Q. Okay. But in any case, you weren't provided with a form by the library of the works to be scanned?

A. Let's see. Sometimes I would get a form. Yeah, they did have an online form for submitting the works, yes.

Q. Let's mark this Plaintiffs' 31.

A. Yes, that's an ERes form. Right, that's the --

(Plaintiffs' Exhibit No. 31
was marked for identification
by the reporter.)

MR. ASKEW: This is Exhibit 31?

MR. LARSON: Exhibit 31.

BY MR. LARSON:

Q. Mr. Palmour, do you recognize this form?

A. Yes. Yes.

Q. And what is this?

A. This is the form that the instructors would fill out, turn into the library staff.
Q. Okay. So you've seen these before?
A. Yes, yes, now that I see it I remember.
Q. You said the professor fills it out?
A. I don't know who fills it out, to tell you the truth. I suppose sometimes it's the professor and sometimes it may be the staff. I don't know.
Q. Okay. This says ERes at the top. Do you know, is this form only used for works that go up on EReserves or could it also be for hard copy reserves?
A. I don't know for sure.
Q. You see the status column?
A. Status, yes.
Q. Says J, J, J?
A. Yes.
Q. That's not you, is it?
A. I don't know. It may be indicating that that's one for me to scan.
Q. So is it the case that sometimes when the library sent you materials to be scanned they would include a form like this?
A. Yes. Yes. That is the case.
Q. And then you would use this form to determine which page ranges to copy?

A. Sometimes there would be a post-it note indicating the page range. Sometimes there would be a discrepancy. If the instructor wanted more than they allowed, they may fill out and ask for more than they're allowed. But what the library would ask me to scan may be different, may be less than what they requested on the form. So I would go by the post-it notes that they would put on the book.

Q. So if the page range identified was for more than 20 percent of the book, you wouldn't scan that entire range?

A. I would -- if I had the book and the page range I would try to remember and notice that that was the case. If it was I would usually go ahead and scan it anyway and let them reduce the amount later.

Q. What do you mean by reduce the amount later?

A. Well, they have the Acrobat software that would be able to open that PDF file up and delete pages from that file.

Q. So they could delete pages until the excerpt got down to less than 20 percent?

A. They could if they wanted to.

Q. Did you do this type of percentage review with every excerpt that you scanned?

A. I can't guarantee that I always did it, but I tried to keep it in mind.

Q. So I know you can't give me with exact precision, but as a general matter you would look at the size of the excerpt and look at the length of the book and see if it was over 20 percent?

A. Yes.

Q. And if it was over 20 percent --

A. I would let the library staff know.

Q. And it was -- would they determine whether or not the excerpts could be posted?

A. Yes, that was their decision.

Q. And was there any sort of communication back to you or follow up as to whether they reduced the size of the articles to get below 20 percent?

A. I recall a couple of occasions when they did indicate that perhaps there was a misunderstanding or a miscalculation. But maybe only once or twice a semester.

Q. Take a look at -- there's a box in the middle here that starts with the phrase, the materials that I am submitting. Do you see that?

A. Yes.

Q. And then you see on the third line it says for book selections you may place one chapter less than 20 percent of the content from the book.

A. Right.

Q. That's consistent with what we've been discussing, the 20 percent cutoff?

A. Yes.

Q. Says copyrighted material must have the complete bibliographic citation.

Did you in your scanning process check that in any way or confirm that it did indeed have the complete bibliographic citation?

A. It was always my practice to scan the title page and the copyright page of any book that we had. But I did not enter the bibliographic information into the system, into the ERes database.

Q. Okay. So in looking at this form, for example, the second line of the professor's works, it just says "The Buddha Eye", is that right? I think I'm reading that correctly.

A. Okay.

Q. There's no publisher listed or city, right?

A. Correct.

Q. If you got something like this you would have still scanned it?

A. If it was a book I would have scanned the title page and the copyright page of the book and included that with the excerpt.

Q. In the scan. Okay.
A. Yes.
Q. Says -- going back to the box in the middle where we left off. Says no second generation copies of copyrighted materials will be placed on physical reserve.
Did you deal with physical reserves at all?
A. No.
Q. Says for digitized items the original item must be owned either by the library or by the instructor placing the item on reserve.
Do you understand that to be a requirement of GSU's copyright policy?
A. Yes.
Q. Did you do any sort of check to see whether the items you were scanning were owned by the library or the professor?
A. I did not. I did not consider that my responsibility.
Q. Whose responsibility was that?
A. I assume it was the library staff.
Q. So you would check 20 percent and that was basically the check you did?
A. Yes.
Q. Let me ask. How did you name the files that

you scanned?

A. The naming convention I used was -- started with the class name, for instance, PHIL2010 in this case, then a dash and then the instructor's last name. And then for each different file I would have an 01, 02, 03 so I did not save -- I did not try to put any more information than that in the file name.

MR. LARSON: We need to break to change the videotape.

THE VIDEOGRAPHER: Off the record at 9:51:31.

(Brief recess.)

THE VIDEOGRAPHER: This is tape two. We are back on the record at 10:05:33.

BY MR. LARSON:

Q. Mr. Palmour, when we left off you were telling me about the file naming convention that you used for EReserves files. You mentioned that it includes the name of the class and the instructor's last name and then a sequential number for the excerpt.

Is the author's name included anywhere in the file name?

A. Not in what I make, no.

Q. Okay. Anything indicating the actual name of the underlying work?

A. No.
Q. You mentioned there's some bibliographic information that's inputted into the ERes system, is that right?
A. Yes.
Q. Who was it that would input that bibliographic information?
A. The library reserve staff.
Q. And do you know whether they did that working with information given to them by the faculty member?
A. I don't know.
Q. Do you know if they would look at the book itself and enter that information or just take it from the form?
A. I don't know how they did that.
Q. So when you said the PDF copies, would you check the copy that you made against the request to make sure you had the correct pages and the correct piece?
A. Yes.
Q. Okay. You recall any instances where you copied the wrong chapter or the wrong pages?
A. Oh, yes.
Q. Did that happen frequently?
A. Not very.
Q. Now, if a faculty member submitted -- let me

back up.

I think you said, and correct me if I'm wrong, that sometimes rather than getting a book you would get a xerox copy?

A. Yes.

Q. In those situations how would you do the 20 percent check?

A. I would not.

Q. Okay. You would just make a digital scan of the xerox copy and send it back to the library?

A. Yes.

Q. In instances when you -- strike that.

Who posted the files to the EReserve server?

A. The library staff would make them available to the students. I would copy the file into a staging area.

Q. What does that mean?

A. Well, the way the software worked was when you add a new faculty member -- when you add an account for a new faculty member it adds a directory with that new account. And any files that are copied up to that directory are then available to an administrator who is setting up that course web page for the faculty member.

Q. And they're able to copy the files over into --

A. Yes, they're able to make them visible to the students.

Q. Okay. Can you just take a look back at the Plaintiffs' Exhibit 29, the first, and flip to page 4. And look at the top there, there's a paragraph and a series of bullets related to the electronic reserves environment at GSU.

Can you tell me if those bullet points there are an accurate description of your duties with respect to EReserves?

A. Yes.

Q. Just tell me what primary system administration for the Docutek ERes system involved?

A. Primarily is the liaison between the library staff and the vendor. When the library staff had questions about how the software worked they would ask me and if I could not resolve that I would ask the vendor. They also had software enhancement requests that they would express to me that I would pass on to the vendor. And then sometimes the vendor would have updates to the software and I would coordinate that with the library staff to get those implemented.

Q. Would you actually implement them yourself?

A. No, I would ask the systems programming group to do the actual upgrade.

Q. Who's handling that task now, do you know? And by that task, I mean the primary system administration.

A. I suppose that's still me. They still occasionally ask me questions.

Q. So you're no longer scanning, though?

A. Correct.

Q. The third bullet says move the contents of the current IS&T electronic reserve system Docuweb to the new Docutek ERes system purchased and supported by IS&T to support GSU electronic reserves.

What are the components of the Docutek system?

A. Components of the Docutek system --

Q. Is there hardware, software, you know, a server?

A. There is a server and there is -- it's a server that it only has the Docutek software running on it. And there's the Docutek software and the Microsoft Windows XP operating system is what it runs on.

Q. Those are owned by the university?

A. Well, the server is owned by the university. The software is licensed by the university.

Q. And is that -- so the university pays a license fee to Docutek?

A. Yes.

Q. And is that a one time fee or an annual fee?
A. It's an annual fee.
Q. Do you know how much that is?
A. It's my recollection that's in the neighborhood of between 4 and $5,000 a year.
Q. Are there other ongoing costs with regard to operating and maintaining the EReserve system other than that annual license fee?
A. There's a backup cost.
Q. What's the backup cost?
A. I do not know.
Q. I mean, what do you mean by that?
A. The systems programming group provides service where they back up all the production servers and make sure if there's a crash they can rebuild it to the point where it was before the crash.
Q. That bullet also says -- refers to moving the contents of the current IS&T electronic reserve system Docuweb to the new system Docutek ERes?
A. Yes.
Q. Docuweb was the old EReserve system?
A. Yes.
Q. And when ERes was put in by Docutek the contents -- tell me what happened.
A. The instructors that were teaching classes for

spring semester 2004 had their materials copied over to the new server and made available to the library's reserve staff.

Q. Was everything that was on the Docuweb server transferred over or just what was needed for courses going forward?

A. Just what was needed.

Q. We'll mark our next exhibit as Plaintiffs' 32.

(Plaintiffs' Exhibit No. 32 was marked for identification by the reporter.)

BY MR. LARSON:

Q. Document with Bates number GSU006281.

Mr. Palmour, do you recognize this document?

A. I've never used this form, so -- but I'm aware that this form exists.

Q. Have you seen a form like this before?

A. Not filled out.

Q. Where have you seen it? I mean, where have you seen a not filled out version?

A. I believe it's accessible from the ERes main web site.

Q. Do you know from your experience enough to say whether this is a form that's filled out when a professor submits an electronic request rather than a hard copy request for EReserves?

A. I'm not sure.

Q. So it was never the case when you were scanning materials for EReserves that a form like this was given to you?

A. No, I have not seen these forms.

Q. Put that aside.

(Plaintiffs' Exhibit No. 33 was marked for identification by the reporter.)

BY MR. LARSON:

Q. Mark this as Plaintiffs' 33.

This is a document bearing Bates number GAState0000693 through 705.

Mr. Palmour, have you seen this document?

A. I don't recall seeing this document.

Q. Turn to page 2, page number 694. Just look at those bullets and tell me if that's an accurate description of the Docutek software and server?

A. Well, it says running Windows 2000, so I think I said Windows XP. That's the only difference.

Q. Okay. Says we are currently using 20 gigabits of disk space.

Do you know how much is currently being used for storage of ERes materials?

A. No, I don't.

Q. Can you turn to page 695, please, next page.

There's a line midway through that -- this is the slide entitled process. That slide at least indicates that after the library accepts a request from the instructor that it locates a copy of the item digital or print.

Do you have any understanding as to what it would mean for the library to locate a digital copy of an item?

A. The library pays a fee for online databases of journal articles. So I assume it's referring to that.

Q. Okay. Does the library also maintain copies of scanned items that were used in past semesters?

A. Yes.

Q. Those are kept on the ERes server?

A. Yes.

Q. They're archived?

A. Yes.

Q. So if a professor were to come in semester one and use an item and it already existed, had been scanned for a previous semester, they could just take that old version rather than rescanning?

A. Yes. Yes.

Q. Do you know what open URL works is? It's in the bullet point there about halfway down.

A. I do not know.

Q. I'm sorry, I think it's open URL -- the bullet is saying open URL works but is currently not being used. You don't know what open URL is?

A. I don't know.

Q. And the next page, if you could just take a look.

Headlined electronic reserves request form. Is this something you've seen?

A. No.

Q. So I take it you don't know whether this is the interface that's currently being used?

A. I do not know.

Q. Would you turn to the page that says 698 at the bottom. It's a page headlined access to course. Says for each course a course page is created.

What's a course page?

A. A web page specific to that course.

Q. And this is a web page within the ERes software or site?

A. Yes.

Q. Is that also sometimes called a course reserves page?

A. Yes.

Q. Forgive me if you've answered this. But who creates those pages?
A. The library reserve staff.
Q. And who would that be, do you know the names?
A. Melia Cargile or Denise Dimsdale.
Q. Is there someone named Corey Schlotzhauer?
A. Yes. It's my understanding he works mainly with the hard copy reserves.
Q. And is there someone named Laura Burtle?
A. Yes.
Q. And is she involved with this process?
A. She is I would say the number two person in the library overall.
Q. So does that mean yes, she is involved in this process?
A. Well, I guess in a supervisory capacity.
Q. Can you just turn to the last page of the document which is 705. Do you know whether this is the current format of a course page?
A. Yes.
Q. Okay.
A. It is.
Q. So just take a look, there's the first entry under the title column says "Undernourishment Around The World". Format is PDF and the size is 478 KB. Now,

from what you told me before when you scan documents you named them with the professor name and the course name, correct, not with a title like this?

A. Correct.

Q. So is it reasonable to assume this isn't an excerpt that you would have scanned and created?

A. Not necessarily.

Q. Okay. Why not?

A. It could have come from anywhere as far as I know.

Q. Now, that "Undernourishment Around The World" has an underline under it. Is that a link?

A. Yes.

Q. And what happens when the person using the system clicks on a link like that?

A. To the right it says the format is PDF, so that means it will open the Adobe Acrobat reader and load that file into Adobe Acrobat.

Q. And then the user can look at that on their computer screen?

A. Yes.

Q. Computer terminal.

A. Yes.

Q. And they can save it to their hard drive of their machine?

A. Yes.
Q. They can print it?
A. Yes.
Q. As a technical matter, is it your understanding that even if they just view it on their screen without printing it or saving it to their hard drive that a copy of the file is being sent over to their computer?
A. Yes.
Q. You can put that one away.
So at the end of the semester, do the files that have been loaded up to the ERes server stay on the server?
A. Yes.
Q. Are they -- is access to those files abated in some way?
A. Yes. Mainly by -- well, there's two ways. The password is changed, and also the course reserve page can be archived so that it's not visible to anybody but an administrator.
Q. Is that archiving process done automatically or does someone have to get in manually and do it?
A. I believe it's not done automatically. Well, okay, when it's set up there's a visible date range established, so at the end of that date then it's no

longer -- it's automatically not available. So I guess the answer would be yes.

Q. Let me restate that just to make sure I understand.

When the course page is set up, it's set up to be available during a certain date range?

A. Correct.

Q. And is the end of that range generally the end of the semester?

A. Correct.

Q. Once that date occurs then that course page is no longer accessible to users?

A. Correct.

Q. But it stays on the system?

A. Yes.

Q. So if -- and it can later be reactivated?

A. Yes.

Q. So if someone came to you, a professor or counsel, and asked if you could -- if they could see your or reactivate a course page for a class that was offered in the spring of 2005, for example, that could be done?

A. Yes.

Q. And it would -- the links to the readings for that class would be active?

A. Yes.

Q. Do you know under the -- let me step back.

You're aware that a new copyright policy was recently enacted by the Board Of Regents?

A. Yes.

Q. And that's operative now at Georgia State?

A. Yes.

Q. Do you know under this new policy whether any of what you just told me with respect to archiving will change?

A. I heard that that's under discussion.

Q. Without -- I don't want you to tell me anything you've been told by your counsel, but to the extent those discussions were not from counsel, what have you heard?

A. Well, I've heard that in general the readings should be made unavailable when they're not used by -- for a particular class any more. And there's been a discussion as to how far that should go, whether we should delete the files completely or move them off the system.

Q. Have you been involved in those discussions?

A. Only briefly. I mean, I'm not -- they asked me logistically what would be involved in recopying all the files back to the server every semester. And --

Q. Who's they?
A. Denise Dimsdale asked me.
Q. So currently the way it did work as you just described to me before, the files were made available at the end of the semester, is that right?
A. Yes.
Q. But they still sat on the server?
A. Yes.
Q. And the question now is whether they should be deleted completely from the server?
A. Yes.
Q. And that would mean they wouldn't exist, the digital copies wouldn't exist anywhere?
A. Well, it's -- they could be saved -- when they're scanned they're stored on a PC initially, and --
Q. On your PC?
A. No, on the PC that's set up and working with the scanning system, which is in the library's media center now.
Q. And do you know when they're scanned and saved there, is a copy kept there when it's moved, copied over to the ERes server?
A. That was the procedure last I heard. I don't know for sure that they still keep it there.
Q. Was that the procedure when you were?

A. Yeah, when I did the scanning myself that was my procedure.

Q. Do you know whether the discussions about deleting the files at the end of the semester would include deleting them from this scanning server?

A. I haven't heard that discussion. Well, I guess somebody did bring up the possibility of having to rescan everything every time.

Q. Well, that's where I was going. When you discussed this, were you -- was the question what would be involved in moving them from the scanning system over to the EReserve server again or actually rescanning them from scratch?

A. Both were discussed as options.

Q. And do you have any knowledge of whether a decision has been made?

A. I do not.

Q. Did you have a recommendation when you spoke to Denise?

A. Not really other than just saying that both would be hard.

Q. So let's take the first scenario which would be that if the files still remain on the scanning server, for lack of a better word, what would be hard about moving them back from that server over to the user system?

A. Well, it would take -- you would have to copy each individual file and you would have to reenter whatever bibliographic information and title was already there. And you'd have to identify each file. Just like you said, I just had a different file naming convention.

Q. So when they're currently -- when you were dealing with this last year, for example, when they were archived, the bibliographic information that had been entered with respect to any file remained and was there?

A. Yes.

Q. Let me ask about that. That bibliographic information, was that entered into particular fields within Docutek or just in the title column, or how did that work?

A. Docutek has the capability of entering in a title and author and publisher field. But most of the faculty did not like the way that that presented the material so the library staff decided to enter that information as part of the title of the document.

It was their normal practice to enter the complete bibliographic citation as part of the title so that they could have it formatted the way that they wanted it to appear.

Q. Do you know what the faculty's concern was or --

A. I think most of them wanted it to appear in standard Chicago manual style format or APA style format to match what they have on their sibilus.

Q. And the way Docutek was set up it wouldn't present it that way?

A. Correct.

Q. And so the library staff would use the title fields and just enter the citation with all that information in there?

A. Correct.

Q. Do you know if they did that as a matter of regular practice?

A. I believe they did.

Q. So are you aware of when a decision will be made on the deletion question that we were talking about --

A. No.

Q. Well, let me ask this, is the current spring semester over yet?

A. No. It ends in early May.

Q. So right now on the EReserve server all the old files are still present?

A. Yes.

Q. Just to go back, we talked about the new

policy and what changes may happen with respect to the archiving policy. Will the new policy have any impact on your coursepack operation?
A. I don't know.
Q. Are you aware of any as you sit here?
A. Well, I suppose it could encourage people to use coursepacks instead of electronic reserves if it became too cumbersome to use the electronic reserves.
Q. And by too cumbersome, what do you mean?
A. Well, if you require everything to be redone every semester it would put a greater work load on the staff and they may have to reduce what they can provide.
Q. In terms of your practices for seeking permission and that sort of thing, do you have any sense of whether that's going to change under the new policy?
A. I do not know.
Q. Okay. Haven't given it any thought?
A. Well, I mean, I've read the policy but as far as electronic reserves go, it's not really my responsibility right now.
Q. So just to be clear, sitting here you aren't aware of any specific changes you're going to be making in your coursepack operation because of the new policy?
A. No.
Q. Let me just confirm. Your ERes and Docutek

support you've provided in the past, was that just local to Georgia State?

A. There was a time early on when we provided the Docuweb electronic reserves service to a couple of other institutions, a couple other University System units.

Q. That changed when you switched to Docutek?

A. That didn't last very long. It lasted maybe two years, I guess maybe. In the late 90s.

Q. Will you mark Plaintiffs' 34.

(Plaintiffs' Exhibit No. 34 was marked for identification by the reporter.)

BY MR. LARSON:

Q. This is a document with Bates number Georgia State 0009948.

Mr. Palmour, take a look at this and let me know if you recognize this document.

A. Yes.

Q. And what is it?

A. This is an e-mail in response to an inquiry from Mike Russell, who is the director of UATS.

Q. Okay. Can you just go down to the bottom of the last page.

A. Yes.

Q. So am I right this starts with an e-mail from

Mike -- well, there aren't any recipients indicated.
But you later responded to this e-mail, correct?
A. Right. I got this e-mail from Mike Russell.
Q. He says after meeting with Nan she had some items for us to consider.
I take it that Nan Seamans is the new librarian?
A. Yes.
Q. Number two says EReserve process enhancements?
A. Yes.
Q. Do you know what was meant by that?
A. I asked Denise Dimsdale, and I think the main thing she wanted improved with the software was the way the information is displayed, bibliographic information. She wanted to be able to control that more.
Q. And you asked Docutek about fixing that problem at one point or another?
A. Yes.
Q. And what did they tell you?
A. I believe they said that a lot of people had asked for that and they would consider it in the future.
Q. Okay. And down at the bottom in the last sentence he says I understand that the library is not happy with the current EReserve and D Space solutions.
Is that the bibliographic information problem

that you're referring to?

A. I suppose. I mean, I asked Denise what that was referring to and that was the main thing she could come up with is the complaint about the way EReserve works.

Q. Number 4 on this list says coursepacks, getting rid of them?

A. Right.

Q. What does that mean?

A. That means that they weren't really a library function, they never were really something that the library was doing. And the assumption in this is that I was supposed to be supporting the library full time and if that was the case she didn't want me spending my time on coursepacks.

Q. Now, was any of your salary or the costs that you incurred paid by the library?

A. No.

Q. So it was just a matter of your spending your time on it?

A. Yes. Our current associate provost instituted a full cost accounting initiative to try to identify what all of our services cost. And then he presented that information to the library's clients and let them respond with what it was they wanted us to be spending the money on. So this was in that context, I believe.

(Plaintiffs' Exhibit No. 35 was marked for identification by the reporter.)

BY MR. LARSON:

Q. Mark Plaintiffs' 35. It's a document bearing the Bates number Georgia State 009876.

And I will represent to you, Mr. Palmour, this was actually produced as an Excel file, so the first page is marked with a Bates stamp and the subsequent pages are a printout that we made from that native Excel file.

A. Okay.

Q. Do you recognize this document?

A. Yes.

Q. Is this the plan you were just discussing?

A. No, this is the old standard way of doing the budget. This is what we called the spin plan.

Q. Okay. And what was the new full cost accounting?

A. Yes. They refer to it as either FMM or full cost.

Q. So this document that we're looking at, do you know when this was created?

A. No.

Q. Did you -- have you seen it?
A. Yes.
Q. Did you participate in any way in putting it together?
A. No.
Q. Take a look on the first page. And the way this works, just so we're clear, the first page -- first and second page go together. In other words, the second page is a continuation of columns corresponding to the items on the first page. Does that make sense?
So if you go down to the bottom of the first page you'll see it says task coursepacks?
A. I don't see --
Q. See that?
MR. ASKEW: What page are you talking about?
BY MR. LARSON:
Q. I'm sorry. There's a page that says instruction, right?
A. Right.
Q. And the next page --
A. Right.
Q. -- there's a main column that says library services support?
A. Right.

Q. If you go down that column to four lines up from the bottom it says task coursepacks?
A. I see. Right. Right.
Q. And a couple lines down in there it says support the LSS coursepack service.
A. Right.
Q. Information support specialist lead. And then moving over to the right you'll see your name?
A. Right.
Q. And then in the column that's headlined FC10FTE says .3?
A. Yes.
Q. Is that a measurement of the amount of your time spent on coursepacks?
A. Yes.
Q. Can we move two pages later. And then if you go down about halfway down you'll see it says task Docutek ERes?
A. Yes.
Q. And again you'll see your name two lines down?
A. Right.
Q. Does that reflect the fact that half of your time is spent or was spent supporting the ERes system?
A. Yes.
Q. There's -- if you go down a little bit lower

there's a category called software licenses and maintenance. You see that?

A. Yes.

Q. And that lists Docutek software, Xerox scanner software and Docutek ERes software. And then over in those lines over to the right there's some costs associated with those?

A. Right.

Q. To your knowledge are those accurate representations of the costs of those pieces of software?

A. Roughly.

Q. Okay. And then quite a little bit lower says scanners need to be replaced. You see that?

A. Yes.

Q. And there's a cost associated with that, $52,000?

A. Yes.

Q. Was that done?

A. No.

Q. So the old scanners are still being used?

A. Yes.

Q. Is there a plan to replace them?

A. Not that I know of.

Q. All right. You can put that away.

Can we go back to Plaintiffs' Exhibit 34. This was the e-mail exchange we were looking at a moment ago.

A. Okay.

Q. On the first page there's a note, an e-mail that you wrote back to Mike Russell, correct?

A. Correct.

Q. Midway down in about the fifth line --

MR. ASKEW: Midway of which paragraph?

BY MR. LARSON:

Q. I'm sorry. Midway of the first paragraph of that e-mail, the paragraph starting I'd be glad to provide you background if I can.

You say the only outstanding problem that I'm aware of is that the e-mail feature that it uses to notify faculty quit working some time ago?

A. (Nods head affirmatively.)

Q. Do you know what that e-mail feature is that you're referring to?

A. Yes. Each time a new account was set up you could enter the faculty's e-mail address and then there's a feature that would let you send out a blanket e-mail to all the faculty that used Docutek.

Q. Just letting them know that a new account had been set up for them?

A. No, to use -- to notify them of anything you want to.

Q. Could you notify them of activity on the system?

A. Yes.

Q. So --

A. If you wanted.

Q. Including whether or not students had accessed files that were stored on the system?

A. Well, the idea was that the e-mail would function to send whatever information you wanted to them. I think it was -- its main value was in providing a list of all of the faculty's e-mail that used EReserve so you could send like a blanket announcement of when the next deadlines are.

Q. Okay.

A. That was the way it was intended to be used.

Q. Just give me a moment, if you would.

We talked a bit before about the EReserve's process and your role in it. You explained that you did an analysis or you looked at the words to see if more than 20 percent was being used, correct?

A. Yes.

Q. And do you have any awareness of the process the library staff engaged in in terms of reviewing items for copyright compliance?

A. Not really, no.

Q. Do you know whether they looked at the works to see if they were over 20 percent?

A. I assume they did. They -- I know they were supposed to.

Q. Okay. Incidentally, do you know the derivation of the 20 percent rule?

A. That's -- my best recollection is that when we first started providing the service in mid to late 90s that my boss at that time, Phil Williams, told me what that limit was. I believe he got it from looking at other university web sites doing similar things.

Q. Okay. So Mr. Williams was the original source of that?

A. Well, for me, that's who I got it from. He may have gotten it from the Board Of Regents or --

Q. When you said that he may have got it from looking at other web sites, do you have reason to believe that that's where he got it from? Did he tell you that?

A. I think he told me that when he discussed it.

Q. Do you know when faculty submits EReserve requests to the library that the library staff does any sort of fair use determination for a given excerpt to see whether it might be fair use?

A. I believe that they did. I believe the new policy is to have the faculty member do that.

Q. And what's that understanding based on?

A. The recent copyright policy that's been released.

Q. We'll talk about that in a moment.

Under the previous regime, do you know, did the faculty do a fair use analysis as well or was it generally the library staff who did that?

A. Well, I believe the form that was submitted that required the faculty's signature required them to acknowledge that it was for fair use.

Q. That was the form we were looking at before? You can grab it out if you want to take a look.

A. Yeah. Yeah.

Q. I think it's at the bottom of your stack. And what's that marked, the Exhibit Number, just for the record?

Mr. Palmour, can you just tell us what the number is, sir?

A. Oh, it's Exhibit Number 31.

Q. Okay. So does that form indicate that either the faculty member or the library performed a fair use analysis?

A. Well, I guess it doesn't now that I look at it.

Q. Was there a limit in addition to the 20 percent rule; are you aware of a limit of one chapter of a work?

A. Only in the sense that they would use one chapter or less than 20 percent, whichever was greater.

Q. Whichever was greater?

A. That's the way --

Q. So if a chapter was 30 percent of a work, that was okay?

A. Well, I'm not sure. You'd have to ask them.

Q. Them being the library staff?

A. The library staff.

Q. But when you told me before about you flagging things that were over 20 percent --

A. Right.

Q. -- would you do that if you had a chapter, a single chapter?

A. Well, I -- actually I did do that with one chapter at one -- I have one recollection of that instance when I noticed it was more than 20 percent and they said, well, it's just one chapter.

Q. And you flagged that for the library?

A. Yeah, I brought it to their attention.

Q. Do you recall who the professor was?
A. I think it was an African American studies professor by the name of Umoja.
Q. Let's talk about the new policy that's been released. You've seen the policy?
A. Yes.
Q. Were you involved in any way in drafting or drawing up of that policy?
A. No.
Q. Have you been involved in any training or meetings or briefings with respect to the new policy?
A. I have been briefed myself. I have attended a meeting where we were briefed on it.
Q. And who conducted that briefing?
A. Cynthia Hall.
Q. When was that meeting?
A. I don't recall the exact date.
Q. Approximately how long ago?
A. Within the last month or two.
Q. And the new policy was presented at that meeting?
A. Yes.
Q. And were you told at that meeting whether or not the new policy was actually formally -- had been put in place and was operative?

A. Yes.
Q. And is it the case that it is?
A. It is my belief.
Q. You were provided a copy at the meeting?
A. Well, we got an e-mail concerning the new policy that included the link to the new policy. I read it when I got the e-mail.
Q. When was that? Was that e-mail sent prior to this meeting?
A. Yes, yes, before the meeting it was sent.
Q. And it was sent out to the entire university community?
A. I believe so.
Q. Are you aware of any formal mechanisms that have been put in place to ensure compliance with the new policy?
A. I know that there's the new fair use guideline checklist, and it's my understanding that they are going to require that for anything new that's put up on the ERes system.
Q. Faculty will be required to fill that out?
A. That's my understanding.
Q. Any other mechanisms apart from the checklist that you're aware of that have been put in place?
A. I'm not sure what you mean by mechanisms.

Q. Let's talk about the procedures that we discussed before.

Do you know whether professors will still under the new policy fill out a request form like the one we looked at?

A. I would assume so, but I don't know for sure.

Q. Do you know whether the library will conduct any sort of review of the excerpts to see whether they comply with fair use or require copyright permission?

A. It was my understanding that that was their intention.

Q. What review will they do, do you know?

A. I believe they will review each work submitted and if they feel that it exceeds what should be allowed for fair use that they will then contact the instructor or possibly legal affairs. I don't know.

Q. And what's the source of this understanding?

A. I believe that was discussed in the meeting when we had the new policy described.

Q. So just so I'm clear, it's your understanding that there will be some review separate and apart from the faculty's determination of fair use?

A. For the electronic reserves system the library staff will still be in control of what goes on ERes, so they will, as I understand it, they will be reviewing what they put up to make sure that it meets --

Q. And I understand that you're not the one doing this now, but --

A. Right.

Q. -- just tell me what you know and I don't want you to speculate. But are you aware that if a faculty member says I filled out my checklist and I believe this is fair use, will the library staff be able to override that decision and not post a work?

A. That was my understanding.

Q. And that would be Denise Dimsdale --

A. Yes.

Q. -- and Melia --

A. Yes.

Q. -- and Corey?

A. Possibly.

Q. Do you know whether the 20 percent rule that we've discussed will still be observed or applied?

A. It's my understanding that we're not supposed to focus on percentage.

Q. Do you know whether there'll be in any rule as to the number of excerpts per course that can be posted?

A. I have heard some discussion of possibly limiting that, but I haven't heard.

Q. And what's the discussion?

A. Well, one discussion I had with Denise -- in that discussion she indicated that they were considering that, restricting the faculty to maybe 50 items total or some other number.

Q. Are you aware if any decision has been made with respect to that?

A. I'm not aware of that.

Q. 50 was the number that she mentioned?

A. Just offhand. I think they were still just thinking about it at that point.

Q. Now, you indicated earlier just a few moments ago that your understanding was that the new policy shifted responsibility for the fair use determination to faculty members?

A. Yes.

Q. Is that -- do you still believe that to be the case even given what you just told me about the review by the library for fair use?

A. Yes.

Q. So they'll both be doing it?

MR. ASKEW: What was that?

THE WITNESS: It's my understanding that the library reserve staff will be double checking what the faculty has done and to make sure that they're not just claiming fair use for something they shouldn't.

BY MR. LARSON:

Q. And do you know how the library will do that?

A. No.

Q. I guess if it's not based on page count, do you have a sense of how -- what it will be based on?

A. Well, no.

Q. Do you know whether they'll review the fair use checklist?

A. I assume they will.

Q. Under the new policy do you know whether there'll be any check on the number of chapters from a work that can be used?

A. I don't know.

Q. So you don't know if the limit of one that we discussed before will be in place?

A. I do not know.

Q. Okay. How about the requirement that either the library or the faculty member must own the work?

A. I would assume that will stay in place since that was a requirement before.

Q. Well, do you have -- is that assumption based on anything you've been told or anything you've seen?

A. No.

Q. Do you know whether legal staff at the university will do any review of postings?

A. I do not know for sure. I do know that they offered that.

Q. Offered it how?

A. They told the library staff that if the library staff had questions about something that they could refer it to the legal affairs staff.

Q. Okay. And will that still be available under the new policy?

A. I believe so, yes.

MR. LARSON: We need to change our tape. Why don't we take a breather.

THE VIDEOGRAPHER: Off the record at 11:03:32.

(Brief recess.)

THE VIDEOGRAPHER: This is tape three. We're back on the record at 11:12:36.

BY MR. LARSON:

Q. Mr. Palmour, just one question going back to our discussion of the budget.

Now that the support for ERes has moved inside the library, will the library budget now pay for the Docutek license and those other expenses?

A. I don't know.

(Plaintiffs' Exhibit No. 36

was marked for identification
by the reporter.)

BY MR. LARSON:

Q. Let me mark Plaintiffs' 36.

Mr. Palmour, do you recognize this page?

A. Not offhand.

MR. ASKEW: Does this document have a Bates production number, Mr. Larson?

MR. LARSON: No, I'll represent this is a printout I made from the university web site yesterday.

MR. ASKEW: This is something we have not produced to you, is that correct?

MR. LARSON: That's correct. It's part of your publicly available web site. And I will also represent that it combines two or three pages of the web site.

MR. ASKEW: This is not a representation of the entire web site?

MR. LARSON: That's correct. It's -- the pages are in the lower left hand corner of the printout, it provides the URL of the page that was printed. So the first two pages are -- first two printed pages represent one web page and then the second

group of three pages represent the second
web page.

BY MR. LARSON:

Q. Have you seen this, Mr. Palmour?

A. No, I have not.

Q. If you could turn to the third page of the printout. It's a page headed guidelines for putting materials on reserve.

A. Right.

Q. There is a -- at the bottom of that first box there's a sentence that says coursepacks cannot be put on reserve, they must be purchased by students enrolled in the course.

Is that a rule that you're aware of that's been in place at the university?

A. I assume what they're saying is if we're printing out coursepacks and selling them to the bookstore, we're not going to undercut that by putting it online, also.

Q. Okay. So by reserve, you mean -- do you read reserve there to mean EReserves?

A. Yes. Well, I guess it could mean hard copy reserve, also.

Q. Just tell me, how would putting it online undercut the sale of the coursepack to the bookstore?

A. If they could get it for free and print it out online, then they would not be as likely to pay for a printed copy at the bookstore.

Q. So would that include taking, you know, if a coursepack had 10 articles, taking those 10 articles and putting them on EReserves?

A. I would assume so.

Q. Please flip to the next page. This is in a section headlined how to submit a request.

I should ask, have you seen this -- have you seen this page that we're looking at now?

A. No, I have not.

Q. You can put that one aside.

We'll mark as Plaintiffs' 37 --

(Plaintiffs' Exhibit No. 37 was marked for identification by the reporter.)

BY MR. LARSON:

Q. -- another set of web pages. And these were produced as part of the litigation. Bearing Bates number Georgia State 0031377 through 87.

MR. ASKEW: Just a second. Those numbers have been deleted on my copy so you're going to have to give them to us again.

MR. LARSON: Oh, I apologize. Yeah, Georgia, GAstate 0031377.

MR. ASKEW: 31377?

MR. LARSON: Up through 31387.

BY MR. LARSON:

Q. Mr. Palmour, do you recognize this document?

A. No.

Q. Not something you've seen?

A. No.

Q. Any awareness then of whether these pages are up and operational?

A. Well, if you got to them I assume they are.

Q. Actually these were produced in the litigation, not something that I printed.

A. Oh, okay. I do not know.

Q. Go forward two pages, if you could. You see a page that has a headline University System of Georgia copyright policy?

A. Yes.

Q. Have you seen that?

MR. ASKEW: You're on page 378, right?

MR. LARSON: It would be 379.

THE WITNESS: I have looked at the Board Of Regents University System copyright policy that they have on their web site.

BY MR. LARSON:

Q. Does this appear to be that policy?

A. Yes, it does.

Q. Okay. Take a look at the second to the last bullet on that page, if you could. It indicates that the University System of Georgia facilitates use of materials currently licensed by the University System of Georgia and provides information on licensing of third party materials by the University System.

Do you know how that's done?

A. I know that they have a large collection of journal articles in databases that they license. But I do not know about providing information on licensing of third party materials.

Q. Well, what do you understand that to mean?

A. I'm not even sure.

Q. You don't know if that means information about materials that have been licensed by the university versus information about how one would go out to a third party to get a license if needed?

A. I would assume the latter.

Q. The last bullet says identifies individuals at the University System and member institutions who can counsel faculty and staff regarding application of copyright law.

Do you know who those individuals are at GSU?
A. I would imagine the primary one would be the legal affairs office.
Q. Has that been communicated to you that that's who it is?
A. Yes.
Q. And what about at the University System level?
A. Oh, at the University System level. I do not know who at Board Of Regents is in charge of copyright policy.
Q. Okay. Flip forward for me to the next page, electronic reserves request form.
You have not seen this you said? I'm sorry, this is different than the front page. Have you seen this?
A. I don't recall.
Q. And just flip through the next pages that are part of this same site and let me know if you have seen them before?
A. No, I've never looked at their forms and procedures.
Q. Let me ask you a couple of questions anyway.
If you could go to the page 3 from the back, it's the Bates number 385. Headlined electronic: Book. You see that?

A. Yes, sir.
Q. There's a prompt there for library owned yes or no.
Do you know how a faculty member would know whether a particular work is library owned or not?
A. They could look it up in the online catalogue.
Q. So you weren't involved then in any way in putting this interface together?
A. No, I was not.
Q. And you don't know whether it's up and running?
A. I do not know.
Q. That is Plaintiffs' 38.
(Plaintiffs' Exhibit No. 38 was marked for identification by the reporter.)
BY MR. LARSON:
Q. This is a web page that I printed out from, again, from publicly available web site indicated on the URL in the bottom left hand corner. The date indicated in the bottom right hand corner.
Mr. Palmour, have you seen this?
MR. ASKEW: Again, this is an incomplete print of what you have -- what you were observing on the web site?

MR. LARSON: It's not the entire web site. It's copies of particular web pages on the web site.

MR. ASKEW: Were these pages in sequence on the web site that you copied?

MR. LARSON: They are distinct pages located at the URL that's in the lower left hand corner of the page. So the first page was the sole amount of information available at that URL. The second page was the sole information available at the URL listed there.

These were each a distinct page from the university web site, the USGED web site.

BY MR. LARSON:

Q. Have you seen this, Mr. Palmour?

A. I have looked at the Board Of Regents copyright policy on their web site and I'm assuming it hasn't changed since I looked at it a couple months ago.

Q. Take a look at the second page which is called additional guidelines for electronic reserves.

A. Okay.

Q. Have you seen this?

A. Yes.

Q. And do you understand this to be part of the new policy?

A. Yes.

Q. Take a look at the fourth bullet please, starts with the instructor. Says the instructor, library or other unit of the institution must possess a lawfully obtained copy of any materials submitted for electronic reserves.

So does that refresh your recollection that that will be a component of the new policy?

A. Yes.

Q. Do you understand that to be a requirement imposed by the copyright law?

A. I'm not sure.

Q. The next bullet if you could just read that involves the requirement of a password so that materials are restricted to students in class?

A. Right.

Q. Same question, do you understand that that is a requirement of the copyright law?

A. I believe that should be.

Q. You believe it should be? Do you believe it is?

A. I believe that access to the materials should be restricted to the students in the class for that semester.

Q. The second to the last bullet says library reserve staff should delete materials available on the electronic reserves at the conclusion of each semester.

That's the discussion that you were telling me about before?

A. Right.

Q. The last bullet says institutions at the University System of Georgia will impose no charge to students for access to materials on electronic reserves.

Do you understand that that's a requirement of the copyright law?

A. I believe the copyright law indicates that fair use requires that it be nonprofit.

Q. So if students were charged it would not be nonprofit?

A. Well, I suppose one could make that argument, but you're just recovering costs I suppose.

Q. Just so I understand. And again, to your knowledge, is this bullet representing simply a policy choice by the university not to charge students or is it actually in place because it's required under the copyright law, do you know?

A. I don't know the law specifically in detail enough to be able to say.

Q. Have you reviewed the fair use checklist?
A. Yes, I have.
Q. You can put that one aside.
Mark Plaintiffs' 39.
(Plaintiffs' Exhibit No. 39 was marked for identification by the reporter.)
BY MR. LARSON:
Q. This is a document bearing Bates number Georgia State 0004591.
Mr. Palmour, do you recognize this document?
A. Yes.
Q. Tell me what this is, please?
A. This is a summary of the usage information for electronic reserves and coursepacks.
Q. And this is for fiscal year 2005?
A. Yes.
Q. And fiscal year 2005 would be --
A. July 1 of 2004 through June 30 of 2005.
Q. Okay. What's the source of the numbers in this report or in this document?
A. Well, let's see. The electronic reserves was probably from the ERes system running a report. And the coursepacks was probably just from me totaling my numbers.

Q. When you say totaling your numbers --
A. Totaling the invoices for each semester.
Q. Those are invoices sent to the bookstore?
A. Yes.
Q. Okay. When you say that the source of the electronic reserves numbers is the ERes system, do you recall whether you ran a report or are you able to get in and view the data in some way?
A. I ran a report.
Q. Is that generally the way you would find out data as to usage of the system?
A. Yes.
Q. So there's a report that can be run that tells you how many courses are using EReserves in a given year?
A. Yes.
Q. This says 796 courses using ERes. Do you know whether that is the number of courses active during that year or the total that were resident on the system?
A. Active that year. It's been averaging about 400 per major semester.
Q. And number of documents used was 9320. What does used mean?
A. The number of documents that were put on the --

Q. Let me ask it this way. Does that mean works that were active and available?

A. Yes.

Q. Not necessarily ones that were accessed by being viewed by students?

A. I don't recall right now exactly how it makes that distinction.

Q. Okay. The number of hits is identified as 213,000?

A. Right.

Q. What does that mean?

A. The number of times a document was viewed.

Q. And this would be all documents across the system?

A. Yes.

Q. So whenever a student clicked on that link for the PDF and viewed the file on his or her computer it would register as a hit?

A. Yes. Yes.

Q. Okay. Does it register as a hit whether or not the student, say, downloads the file to their hard drive, saves it to their hard drive?

A. I think it only registers when you actually open a file, but it doesn't know what you do with it.

Q. As you said before when you open it and view it, when the student does that on their computer, that involves transmitting a copy over to their computer?

A. Right. Right.

Q. Although they might not choose to save that copy?

A. Right.

Q. Okay. You provide -- well, scratch that.

To your knowledge are these numbers that you provided to your coursepacks accurate?

A. Yes.

Q. And to your knowledge are the numbers provided by -- that you list here for the electronic reserves accurate?

A. Yes, as far as I know.

Q. Have you had any opportunity in the past to check the accuracy of the EReserves reports?

A. Well, I have tried accessing the document and making sure that that increases the hit count. That seems to be what it's doing. There is some small question in my mind about the number of courses active. When it gets into the area of archiving classes, I'm not sure if it's counting those or not. So I don't do the archiving process and I can't really check that for sure.

Q. I mean, are you saying then that the number of courses, 796 number there might include some archived classes?

A. I'm saying it may be missing some that were archived later. I looked at and got a report of how many were -- that it knew of for a particular semester after the fact and it may have been that some of those were archived or made unavailable somehow.

Q. I want to make sure I understand what you're saying. Is it if you were to run a report for the number of courses that were offered, you know, say a year ago --

A. Right.

Q. -- that it might give you a different number than had you run the report at that time?

A. Exactly.

Q. So the number -- number reported if I ran the report now might be lower than what was reported at the time?

A. Correct. It's a suspicion I have. I'm not totally 100 percent sure.

Q. And what gave rise to that suspicion?

A. Noticing that the number changed over time, it went down.

Q. Did you ever talk to Docutek about that?

A. No, I did not.

(Plaintiffs' Exhibit No. 40
was marked for identification
by the reporter.)

BY MR. LARSON:

Q. We'll mark as Plaintiffs' Exhibit 40, document bearing the Bates stamp Georgia State 0004542.

Mr. Palmour, do you recognize this?

A. Yes.

Q. And what is this?

A. It's information provided for the annual report on totals for electronic reserves and coursepacks.

Q. Okay. And this is for fiscal year '07?

A. Yes.

Q. So fiscal year '07 would be July of 2006 through June of '07?

A. Yes.

Q. Okay. Now, you say here -- well, let me ask you again.

What's the source of this, the statistics in this e-mail?

A. The same as before, electronic reserves is from running a report, and coursepacks is totaling up the number from the invoices.

Q. So to your knowledge the numbers provided in this document are accurate?

A. As far as I know.

Q. And then with respect to the number of classes and the number of course reserves pages -- strike that.

The number of classes is listed as over 1,000. Again, that's active classes during that time period?

A. Yes.

Q. And this says that 4620 new documents were added to the collections. Is added -- strike that.

Does that mean that these were 4620 documents added on top of the numbers we saw in the previous e-mail?

A. Yes.

Q. Again, so it's not -- documents added during this fiscal year doesn't mean the total number of works resident on the system?

A. Correct.

Q. That would be some larger number?

A. Correct.

Q. Okay. So just to -- it says here that there were 494 new course reserve pages set up and 4620 new documents added. Can we conclude from that there were about 10 works per course on average for the new courses added that year?

A. Yeah, you could.

Q. You say they were 267,723 document downloads?
A. Yes.
Q. What do you mean by the word downloads?
A. Well, I suppose I should have used their phrasing, document hits, that number of times somebody clicked on one of the document links on the course reserve page. And those aren't all PDF files. Those could be references to hard copy or just references to a catalogue listing in the online catalogue.
Q. Okay. The coursepacks numbers that are provided here, are those accurate to the best of your knowledge?
A. I believe so.
Q. And the source of that would be again your invoicing records to the bookstore?
A. Yes.
Q. And so it's the case, if you want to look back at Exhibit 39 for confirmation, it appears to me that there was a drop in the number of courses using coursepacks from 125 to 56?
A. Well, I rephrased it. I said number of classes using coursepacks. And I think I was including class sections, every different class section as opposed to titles. And the other one, 56 titles.
At this time one of the biggest numerically

ones we were doing was two biology lab guides and it was the same title but it was used for every introductory biology class. So there were several hundred copies used for maybe 20 different sections.

Q. Do you have any sense then that, going back to Exhibit 39, the number of courses using -- what the number of courses would have been in that year?

A. It was probably about the same. The total number of coursepacks sold is about the same. It was probably about the same for total number of classes and titles.

Q. Mark Plaintiff's 41, an e-mail bearing a Bates stamp Georgia State 0004600.

(Plaintiffs' Exhibit No. 41 was marked for identification by the reporter.)

BY MR. LARSON:

Q. And do you recognize this, Mr. Palmour?

A. Yes.

Q. And just tell me what that is.

A. It's an e-mail I sent to Denise Dimsdale when she asked about usage of ERes.

Q. And this was written or sent in January 2008?

A. Yes, it looks like it.

Q. And you were providing numbers at least at the beginning here for fiscal year 2007 again?

A. Yes, it looks like the same number.

Q. Right, the number of new documents added there --

A. Right. Right.

Q. -- the same as the last?

A. Right.

Q. Okay. And the number of new course reserve pages is also the same as we saw in the last e-mail?

A. Right.

Q. Now take a look at the next paragraph. You say there are actually only a couple of months last fall that were more than the previous year. The final semester year totals were down slightly from the previous year but not by near as much. And you provide some numbers, 4,608 documents for calendar year 2007 versus 5,034 for 2006. 7,661 for 2005 and 9,646 for 2004 our first full year.

So just to be clear, we're talking about calendar years here now as opposed to fiscal years?

A. Yes.

Q. And these are -- the totals you're giving here are documents added in each of those years?

A. Let's see. In the first paragraph, yes.

Q. And so could you add those numbers together to get the total number of works resident on the system either archived or active?

A. Yes.

Q. And is it the case that the number drops year to year because in subsequent years professors are using files that were already posted in previous years?

A. That's correct.

Q. You also provide some numbers on document downloads in the next paragraph. You say that's grown steadily each year with 260,000 in the last calendar year. And that would be 2007?

A. Correct.

Q. 253,000 in 2006, 248,000 in 2005, 215,000 in 2004. Did those numbers come from an EReserves report?

A. Yes.

Q. And those are accurate to the best of your knowledge?

A. As far as I know.

Q. Mark as Plaintiffs' 42 a document bearing the Bates number Georgia State 0004865. And you might want to keep the last document handy to compare.

(Plaintiffs' Exhibit No. 42 was marked for identification by the reporter.)

BY MR. LARSON:

Q. Mr. Palmour, do you recognize this document?

A. It looks like a summary report from the ERes system.

Q. So the ERes system will --

A. Broken down by calendar year.

Q. Does it create a report that looks like this or would you have taken information from some other report and created this?

A. I don't recall. It looks like -- it looks like the output from the ERes report. It looks like it may have been cut and paste from that.

Q. And do you know what accounts means?

A. An account is set up for each instructor.

Q. And go down to the section of the report that says documents and you'll see there it provides some numbers in the column number of items created --

A. Okay. This is -- I think this is what they call the system growth report. And it lists by each year in this case how much -- how many new items were added.

Q. And is the system growth report sort of a standard report that can be generated by the ERes system?

A. Yes, it is.

Q. Now, if you take a look at the documents section --

A. Yes.

Q. -- for 2004 and 2005.

A. Yes.

Q. You'll see two numbers, 9646 and 7661 --

A. Yes.

Q. -- for those two years?

A. Yes.

Q. Those are the same as reported in the previous -- in Plaintiffs' Exhibit 41, correct?

A. Okay.

Q. Can you just confirm that for me?

A. Yes.

Q. Now, in Plaintiffs' Exhibit 41 -- sorry?

A. Except for 2006, that's partial I guess or something.

Q. That was my question. Does it appear that this was perhaps run in the middle of 2006?

A. Yeah, I would guess that's why it's so low.

Q. And again, the numbers then provided in each year are additions to the system, not total numbers for the system, correct?

A. Correct.

Q. Course reserves pages, does that show the number of new course reserves pages created in each of these years?

A. I believe so, yes.

Q. And departments, what does the departments item indicate?

A. Department is used in forming the course name, like biology. You lump every course within a department.

Q. So again, when we see the change from 92 to 2 from 2004 to 2005, does that reflect the fact by 2005 basically every department had been added already?

A. Right. Only two new ones were added.

Q. What's the publishers item?

A. There's a record, a place for entering publishers information. And I think that was filled out initially, but apparently maybe not used much afterwards.

Q. Well, did you indicate before that at a certain point the library staff started entering publisher information just in the title fields?

A. That's correct.

Q. Rather than -- but there is a publisher field that could be used?

A. That's correct. Right.

Q. And so is it your understanding that when they would enter the publisher information in the title field

they didn't bother putting it in the publisher field?
A. Correct. I believe at some point they quit entering information into that.
Q. What are library research guides?
A. You would have to ask them. They have some online help for each different department for doing research for each area of study.
Q. Okay. And these are items that are posted to ERes?
A. It's more like links.
Q. And what's permission request, what's that indicate?
A. That's if we were doing copyright permission for electronic reserves that would be entered there.
Q. So this shows none were requested through the date of this report?
A. That's correct.
Q. Is there any possibility that permissions -- let me ask it this way. This just shows permission requests that would have been entered into the system?
A. Correct.
Q. So if someone had requested permission outside of the EReserve system, that wouldn't show up here?
A. Correct.
Q. And does this show -- EReserves has -- the

EReserve software had the capability built into it that allows for an interface with Copyright clearance Center, correct?

A. Yes.

Q. So when a work is posted a permission request can be generated?

A. It can be.

Q. Is that what this would measure here?

A. Probably is.

Q. Do you know?

A. Well, it's not just Copyright Clearance Center, so I guess you can put in other publishers also.

Q. I guess -- I'm not asking this well. Let me see if I can try again.

Is this showing actual -- a request activity in the system or is this showing simply whether a field was entered saying yes or no, there's been permission obtained for this particular work?

A. The former.

Q. Former. Okay.

So if a professor had, as you said before happened on occasion, a professor had gone directly to a publisher and gotten permission to put something on EReserves, that would not register in this metric here?

A. It would not because we would not use this mechanism to do that.

MR. LARSON: Mark Plaintiffs' 43.

(Plaintiffs' Exhibit No. 43 was marked for identification by the reporter.)

BY MR. LARSON:

Q. -- a document bearing Bates number Georgia State 0004537 headlined library services support, accomplishments for fiscal year 2008.

Mr. Palmour, do you recognize this document?

A. Yes.

Q. Did you create it?

A. Yes, I did.

Q. If you can look down I say about 10 bullet points, there's an electronic reserves entry. You see that?

A. Right. Right.

Q. It says upgraded ERes version 5.3.03 and added approximately 4700 documents to the system?

A. Correct.

Q. What was the upgrade?

A. It's just a new version of the software they got, some bug fixes in it.

Q. Okay.

A. It's not very major.

Q. And added approximately 4700 documents to the system. What's the source of that number?
A. Probably the ERes reporting system.
Q. Same as we saw before on the previous exhibits?
A. Yes. Yes.
Q. And again, that's additions and not a measurement of the total number?
A. Correct.
Q. The next bullet says produced and sold approximately 1700 coursepacks through the bookstore?
A. Correct.
Q. GSU Bookstore, right?
A. Yes.
Q. Would there have been coursepacks sold through any other outlets?
A. I don't think in that fiscal year there were.
Q. Do you know how many classes or courses were represented by that number?
A. Not right offhand.
Q. Any ballpark?
A. Probably what was listed before. I mean, there's -- let's see. This is fiscal year 2008. Probably in the neighborhood of 50 or so classes or courses.

Q. Is it correct then that there was a drop from 2007 to 2008 from about 2400 to about 1700 coursepacks sold?

A. Yes. Yes. The biggest drop was that biology lab guy that quit doing it, which impacted the --

Q. They quit using a coursepack?

A. Yes.

Q. Do you know whether they moved to distributing that material through some other mechanism?

A. I think they put it online.

Q. Put it online where?

A. I'm not sure. I think on their own departmental web site, but I'm not sure. It was just a lab guide with no copyrighted information in it.

(Plaintiffs' Exhibit No. 44 was marked for identification by the reporter.)

BY MR. LARSON:

Q. Let me mark as Plaintiffs' 44 a document bearing Bates number Georgia State 0000916.

Do you recognize this document?

A. Yes.

Q. And what is this?

A. This was a response by e-mail to Laura Burtle inquiring about usage on the ERes server.

Q. And this was from June of 2008?
A. Yes.
Q. Okay. And am I correct that in the middle of it where it says Jim Palmour 6/10/2008 12:53, this is an e-mail from you to Laura?
A. Yes.
Q. Okay. You say currently there are 229,504 documents and 1,791 course pages listed in the system.
What's the source of those numbers?
A. Probably the ERes reporting system.
Q. Did you say probably or it is, that is the source?
A. That is where I got those numbers from.
Q. And are those numbers total numbers for the entire system?
A. Yes, I believe so.
Q. So these would include documents that were archived?
A. Yes.
Q. And course pages that were archived?
A. I guess so. I think so. I'm pretty sure.
Q. And what leads you to believe that?
A. Let's see. Course pages -- well, to tell you the truth I haven't compared those numbers with the other numbers to make sure that they total up. That

seems about right, anyway, should be about right.

Q. Okay.

A. Just with the caveat of as I discussed before about archived, some archived courses seemed --

Q. You described that there in the middle of that paragraph?

A. Oh, okay. Right, okay.

Q. You say we have 89 course pages listed as permanent.

A. Right.

Q. What does that mean?

A. There's some that don't have any copyright material in them that just stay up and are available all the time.

Q. Okay. And are those for classes that are offered semester after semester or --

A. I couldn't answer that.

Q. And who has access to those?

A. You'd have to ask Denise on that. I'm not sure.

Q. Okay. Says the reports do not show exactly how many documents that is, but you could figure an average of 15 to 20 documents per course based on the totals.

Do you mean to say that if you averaged out the total number of documents and the total number of course pages resident on the system, the average is in the range of 15 to 20?

A. Yes, roughly.

Q. What's the highest you've seen?

A. The highest I've had experience dealing with was one history professor who had well over 100.

Q. Who was the professor?

A. I can't remember his name now.

Q. This next section here you say as far as faculty using the system, the best it gives us is the summary of the system growth in terms of number of accounts added. Just --

The numbers sort of run together here, but is what this is showing for 2004 to 2008 the number of new faculty accounts that got added in each of those years?

A. Yes. Except 2008 is probably partial.

Q. Right. Because this was run in June of 2008, is that correct?

A. Correct.

Q. Okay. Up at the top of this e-mail you refer to -- you say you ran some more reports and made the attached Excel files which have details on the number of downloads of each file and which course page it was in.

A. Right.

Q. What are these reports you're talking about?
A. There's a document, I forget the name of the report, document usage report I believe, something like that.
Q. You see the attachment line at the top?
A. Right.
Q. Does that refresh your recollection as to what these reports were?
A. Yeah, they were -- I know what they are. I'm just not sure what they are referred to in the ERes system as. But they're basically listings of each document that was used and how many times it was accessed.
Q. Okay. And then when you say has details to number of downloads --
A. Yes.
Q. -- again, is that the hits that we were talking about?
A. Yes.
Q. And are these ERes reports the same reports that we've been talking about on the last several exhibits that you ran to provide numbers for those previous years?
A. The one that created the Excel spread sheet was different. It had a line for every document in the

system.

Q. Okay. So in the previous exhibits the reports that you've told me that were generated by the system, those were more in the nature of summary reports?

A. Yes.

Q. And the reports you mention here are line by line?

A. Very detailed, yes.

MR. LARSON: Let me -- I need to get up here for a moment and grab something from the box.

How much time do we have on the tape?

THE VIDEOGRAPHER: About 10 minutes.

MR. LARSON: Perfect. Then we'll do this and then break.

Let's mark this as Plaintiffs' Exhibit 45.

(Plaintiffs' Exhibit No. 45 was marked for identification by the reporter.)

BY MR. LARSON:

Q. So Mr. Palmour, is this -- I'll represent to you that this was a document that was produced to us yesterday by your counsel in response to our request for the attachments listed on this e-mail.

Do you recognize this as the document usage 2008 spring XLS report listed here?
A. Yes. Yes.
Q. And this was created by the EReserve system?
A. Yes.
Q. So tell me -- let's just walk through what we have here. What does this report show?
A. Well, on the left hand column under the heading document, that's the title of the document as the library staff entered it.
Q. And they do that based on information given to them from the professor?
A. In part, yes.
Q. What other sources?
A. They may add more information if they need to.
Q. And where would that information come from?
A. Well, from the book or --
Q. Okay.
A. -- the journal.
Q. Just take a look down eight lines down, you'll see there's an entry with a call number there?
A. Correct.
Q. What does that indicate?
A. That's a link to a record in the online catalogue system.

MR. ASKEW: Which one are you looking at?

MR. LARSON: I apologize. It's one Franklin is the -- Franklin, Mackay.

BY MR. LARSON:

Q. So that's a reference to something in the hard copy reserves as opposed to PDF on the system?

A. I'm not sure if it's hard copy reserves or just a book in the stacks in the library that's -- and that's the call number for it.

Q. Okay. What's the next column of course reserves page?

A. That's the name of the course reserve page that that document is in.

Q. So just taking the first one as an example, then that means that there was a course reserves page created by library staff for the course ALE 320?

A. Yes.

Q. And that course was called "Sound System Of English"?

A. Correct.

Q. And it was offered in the spring of 2008?

A. Correct.

Q. And Grant Murphy was the professor?

A. I believe that's two different instructors.

Q. One named Grant and one named Murphy?
A. Yes.
Q. And one of the readings made available on that course reserves page was the C.M. Mackey work that we see in the document category?
A. Yes.
Q. What's the date range column?
A. The date range is entered by the person running the report, in this case it was me. You can set that date range to whatever you want to see what documents were accessed during that date range.
Q. Okay. Up at the top it says document usage spring 2008. Is that a title that you gave this?
A. I don't recall. I think so.
Q. What's the hit count category or column?
A. That's the number of times that that document was -- that the link to that document was clicked on.
Q. And that would correspond again to the user viewing the file in the case of a PDF, viewing the file on their computer?
A. Yes.
Q. Okay. And what's the percentage of the total?
A. If you total up all the numbers in the hit count, that's what percentage that number is.
Q. That's the percentage of the total hits

overall in the entire system?

A. Yes.

Q. Represented by hits on this particular work that's listed here?

A. Yes.

Q. Okay. So is it your experience that these reports are generally accurate?

A. I would assume so, yes. It's my assumption that that's the case.

Q. Okay. And so just taking an example of this article here by Suzanne Firth about six lines down.

A. Right.

Q. Any reason to believe that that particular excerpt indicated there in the document column wasn't present on the system?

A. What was the question again?

Q. I pointed you to the entry for Suzanne Firth --

A. Right.

Q. -- for 1992.

A. Right.

Q. My question is just a simple one. Is there any reason to believe that that document indicated here on this report wasn't on the ERes system?

A. No, I would assume it is on the system if it's in the report.

Q. Any reason to believe it wasn't viewed 12 times as indicated in the hit column?

A. Well, that could be staff clicking on something or faculty. But that's just 12 times somebody clicked on that link.

Q. Okay. Do you run reports like this on any sort of regular basis?

A. No.

Q. Just turn to the last page, if you could. There are totals.

A. Okay.

Q. So does this indicate that during this time period that the works on the EReserve system were reviewed 98,605 times?

A. Yes.

Q. Have you run totals for the 2008 year overall?

A. Like this?

Q. Or just -- no, totals like this or the previous documents we looked at.

A. Fiscal year 2008 or calendar year 2008?

Q. Either.

A. I probably have done -- I probably have done summary reports for both.

Q. And do you have a sense of whether the hit, the trend in hits is increasing as we saw in previous e-mails has continued in 2008?

A. I can't recall clearly right now.

Q. Do you recall whether it dropped?

A. I don't recall. Clearly the general trend has been increasing slightly.

MR. LARSON: Why don't we break here for lunch.

THE VIDEOGRAPHER: Off the record at 12:10:27.

(Lunch recess.)

THE VIDEOGRAPHER: This is tape four. We are back on the record at 1:13:36.

BY MR. LARSON:

Q. We're marking as Plaintiffs' 46 --

(Plaintiffs' Exhibit No. 46 was marked for identification by the reporter.)

BY MR. LARSON:

Q. -- document bearing the Bates number Georgia State 0038782 running up through 38808.

Mr. Palmour, do you recognize this document?

A. Yes.

Q. What is this?

A. These are some spread sheets that I made

summarizing the coursepack business over the years.
Q. When did you make these?
A. Each year.
Q. So you keep this on an ongoing basis?
A. Normally. I used to, I quit after a while.
Q. Now, if you flip -- actually if you flip from the back is probably the easier way to do it. It appears that there is a page for spring semester 2008?
MR. ASKEW: What page number is that?
MR. LARSON: 807. Two from the back.
THE WITNESS: Right.
BY MR. LARSON:
Q. Is that right, is that -- and I think it carries over on to the next page, the spread sheet is just split off --
A. The last two pages.
Q. -- by the printing.
Am I right that that indicates that there were coursepacks for 23 courses offered in the spring of 2008? And that's a number in the sort of bottom left hand corner of the chart there.
A. Yes. Well, that's different titles. Some of those were for the same course. There's a reading and a study guide for some of those.
Q. Right. I see. So that's the total number of

coursepacks. But the number of courses is somewhat smaller?

A. Yes.

Q. And if you work backwards, the next one we come to is summer semester 2001. And it's two pages earlier, page 805.

A. Right.

Q. My question is, did you keep similar numbers for the period between summer semester of 2001 and spring semester of 2008?

A. No, I did not.

Q. You did not. Okay.

So to the extent you have numbers there, those would be available from your invoices to the bookstore?

A. Yes.

Q. As a general matter has the coursepack business -- or how would you characterize the trend over the last several years in the coursepack business?

A. It's been gradually declining.

Q. And would you know in the current semester we're in now how many coursepacks are being offered, how many titles?

A. I think it's about 15 titles.

Q. To what do you attribute the drop?

A. Well, one last summer was a coursepack that was four chapters from a psychology textbook and the publisher wanted to go up to 25 cents per page for the copyright royalties on that one. So I informed the instructor how much it would cost and she decided she would do something else.

Q. And what did she do?

A. She reduced the amount of it and put it on the electronic reserves.

Q. Do you know by how much she reduced the amount?

A. She reduced it to under 20 percent of the book.

Q. What professor was that?

A. Well, it was for the IEP department, intensive English program. The head of that department is Sheryl Delk but I don't know which individual instructor taught that class.

Q. Okay. And when -- so when she was using the coursepack she was -- you were paying permission fees to the publisher for that?

A. Yes.

Q. And when some portion of the amount that was in the coursepack was put on EReserves, were there permissions payments made for the use on EReserves?

A. No.

(Plaintiffs' Exhibit No. 47
was marked for identification
by the reporter.)

BY MR. LARSON:

Q. Let me mark as Plaintiffs' 47 a document that has the Bates number 000 -- Georgia State 0004778.

Mr. Palmour, please take a look at this and let me know if you recognize it?

A. Yes, I do.

Q. And what is it?

A. It's an e-mail exchange between me and a professor named Jacob Selwood concerning coursepacks and electronic reserves.

Q. And Mr. Selwood is in the history department, is that right?

A. Yes.

Q. Okay. And if you look at the bottom e-mail on the first page, that's an e-mail from Professor Selwood to you, correct?

A. Yes.

Q. It's from early '06. He indicates in the second and third lines, I've so far been using electronic reserves but had significant complaints from students about the cost of printing.

Did you hear complaints like that when you were dealing with this?

A. I've heard students complain about having to pay I guess a nickel a page they charge them for printing in the labs.

Q. Were those -- was that a common complaint?

A. I imagine students are always complaining about having to pay for anything.

Q. He goes on to say, I would probably use the coursepack of about 14 articles/chapters of about 30 pages each under copyright.

Do you know what is meant there by the phrase under copyright?

A. I would assume he's meaning that those are published works that are subject to copyright.

Q. I see. So are these works that at the time were currently on EReserves?

A. I'm not sure.

Q. Well, let's look up at your response to him.

I guess the question I'm trying to understand is whether he's asking you what would be involved with switching his works from the EReserves over to coursepack. If you take a look at your e-mail back to him, does that give any indication as to whether that's what was happening?

A. Yes, that would be the indication from his

original e-mail. He's been using electronic reserves.
Q. So you respond by giving some costs here for coursepacks, correct?
A. Yes.
Q. And I think you indicate that the printing cost is 8 cents per page, right?
A. That's correct.
Q. And is that still the case today?
A. Yes.
Q. Okay. And that's a charge that comes from where?
A. I charge the bookstore 6 cents per page and they have a one third markup which makes it 8 cents per page.
Q. Does that markup apply to all the costs of the coursepack or just the printing cost?
A. The entire cost including copyrights.
Q. Okay. And the 6 cents that you charge, how do you devise that charge? You know, where did you come up with 6 cents?
A. That was -- original price that the printing group in our IS&T charges was I think 4 cents. And I guess my boss decided to add on an extra margin to account for my time and effort.
Q. You say there's 1.50 per booklet charge for

covers, binding and packaging. Is that still the case?

A. I charge the bookstore a dollar and then they mark that up. So I guess probably be more like 1.33.

Q. And then it says the copyright royalty cost per page averages 10 to 20 cents per page. Continuing a little bit lower -- well, let me ask that.

Are the royalty costs per page averaging 10 to 20 cents per page, is that still an accurate statement?

A. They may be even higher than that now. Probably more like 20 cents and more.

Q. Okay. And then you say the royalty fee would have to be increased by a third for the GSU bookstore profit margin and markup.

Explain how that markup works for me, if you would?

A. That's their standard markup, anything that they buy from I guess the wholesaler, then they turn around and sell to the students they mark it up by one third is my understanding.

Q. And that's -- again they're a commercial operation?

A. Yes.

Q. So the cost that you charge to the bookstore for these coursepacks, are you basically just passing through your costs or is there some margin or markup in there for you as well?

A. We're trying to recover costs. I don't think that we're making money. We're probably losing money on it if you include my time.

Q. Do you cover your printing and binding costs?

A. Yes.

Q. So just so I'm clear here. So your conclusion here is, if you read a little bit lower, that whereas the coursepack -- well, strike that.

So you could tell your students that it would probably cost them at least 25 cents per page and maybe more for the coursepack, is that right?

A. Right.

Q. And that's as compared to five cents per page to print?

A. Right.

Q. You go on to say I guess that's why we have about 400 classes using ERes each semester and only 15 using coursepacks. What did you mean by that?

A. Well, that's the decision of the faculty whether they want to use electronic reserves or coursepacks. And most of them choose to use the electronic reserves probably in large part from the input from the students saying it's so much easier and cheaper, more convenient.

Q. And so if the professor opts to use a coursepack, a printed coursepack, they have to pay permission fees under your system?

A. Yes.

Q. And if they put the same material on EReserves, it's just the printing cost, is that right?

A. Yes.

Q. You say when we started doing -- this is continuing in the same paragraph.

When we started doing electronic reserves more and more students were asking their teachers to use it as opposed to coursepacks mainly for the cost.

That reflects what we were just discussing?

A. (Nods head affirmatively.)

Q. Let me ask you this. If the students are paying ultimately for the coursepack at the bookstore as opposed to you, do you have a preference as to which they use?

A. You mean do I prefer that they use coursepacks or electronic reserves?

Q. Right.

A. No.

Q. You are indifferent as to which form the professor uses?

A. I leave it up to them. I try to make both of them equally available.

Q. Look a bit up in that paragraph. You say about four lines down, I looked up the readings on ERes for your history 1112 class and the "Guns, Germs And Steel" is going for 15 cents per page. The "Sweetness In Power" is going for 11 per page. And then on and on.

Where did you look those up?

A. Probably Copyright Clearance Center.

Q. And you were looking them up, again, to see what the cost would be to put them in coursepacks, correct?

A. Correct.

Q. So if you -- putting aside the obvious difference between a digital copy and a paper copy, would there be anything different between Professor Selwood putting these readings on EReserves versus using a coursepack?

A. Well, he would have to make the fair use assessment. That would have to be done.

Q. He'd have to do that to put them on EReserves, correct?

A. Yes.

Q. You mentioned one example before of I think you said an IEP professor. Have you seen other examples of professors making the opposite switch from what we see here, that is offering a coursepack and then deciding to put the materials in that coursepack on EReserves instead?

A. There's been a few that -- the biology lab guy I talked about, I think they put it on their own departmental web site.

Q. And do you see instances where a professor is deciding, trying to decide between a coursepack and EReserves and chooses EReserves?

A. I've seen that a couple times.

Q. Let's just go back to the document I'm looking for Bates numbered 9948, but I have to find the exhibit number.

Take a look at Plaintiffs' Exhibit 34. Can you grab out Exhibit Number 34, please. If you look down at the bottom in the coursepacks paragraph. And then look at towards the end of that paragraph, you say if it is preferred that I not do them -- I take it meaning referring to coursepacks? I would suggest they be taken over by Donya in Jerry's printing services operation. She's the only one with the incentive to grow the business whereas I have been competing against myself by giving away the same thing for free in EReserves.

Let me ask first, what would Donya's incentive be to grow the business?

A. Donya's sole function is running the printing operation within IS&T. And she's mainly concerned with it, increasing the volume of business that they do.

Q. So do they run that as a profit center, for lack of a better word?

A. Yes.

Q. You say I've been competing against myself by giving the same thing away for free in EReserves. What did you mean about that?

A. Well, if someone wanted me to grow the coursepack business and also provide the electronic reserves service, it's kind of contradictory to me to have the same person doing both the coursepacks were something that somebody wanted to increase the business for and make more money for them.

Q. What you're saying here is that the materials that would be put on EReserves are the same materials that would be put in a coursepack?

A. It's possible.

Q. And the difference being, though, that EReserves are free to students whereas coursepacks carry a charge?

A. Plus there's more of the fair use requirements for what goes on the electronic reserves.

Q. But the EReserves, it's correct that the EReserves are free apart from --

A. That's correct. That's correct.

Q. Apart from the nickel a page printing cost?

A. That's correct.

Q. So they compete with coursepacks because they are free as opposed to something you have to pay for, right?

A. That's correct.

Q. Okay. Put that aside.

Mark as Plaintiffs' 48 a document that has the Bates number Georgia State 0004844.

(Plaintiffs' Exhibit No. 48 was marked for identification by the reporter.)

BY MR. LARSON:

Q. Mr. Palmour, do you recognize this e-mail?

A. Yes, I do.

Q. And just tell me what it is.

A. It's an e-mail exchange with a Professor Nancy Kript.

Q. And who is Ms. Kript?

A. It says here she's a professor in the school of social work.

Q. Okay. You see at the bottom the e-mail from her, this carries over to the second page, she says while I have a plan to use several articles/chapters as required readings.

A. What was the question?

Q. I just wanted to point you -- you see where she says that?

A. Oh, as required readings, yes.

Q. And then she goes on to ask about using the coursepack, correct?

A. Yes.

Q. And I think you said before that it was not uncommon for coursepacks to include required readings, correct?

A. Yes.

Q. You respond in the e-mail on page 1, we still do offer the service but most faculty have been moving to using electronic reserves which is similar but involves putting the articles online for students to download instead of buying them printed at the bookstore.

Again by similar in this sentence, you mean essentially that it's the same articles that a professor might put in a coursepack but instead they've being putting them on electronic reserves instead?

A. Correct.

Q. Now, again she is, as I said before, she was discussing required readings here in her e-mail. That didn't stop you from providing her with information about electronic reserves, right?

A. It's never been my understanding that required readings were not to be allowed on electronic reserves.

Q. Okay. You go on to say in that paragraph, the administration has been encouraging the use of electronic reserves lately.

How did they encourage the use of electronic reserves?

A. Well, I recall an e-mail that went out from some vice president several years ago, I couldn't find the exact one in my archives, but he was encouraging the faculty to switch from printed coursepacks to using EReserves where possible.

Q. Who was this vice president?

A. I do not remember the name.

Q. Do you recall, where he was encouraging that switch?

A. The main subject of the e-mail --

Q. I'm sorry, I shouldn't say switch, but why he was encouraging use of electronic reserves?

A. The main subject of the e-mail concerned a company, a private company called The Print Shop, which was doing a large portion of the coursepack business for Georgia State. And they were billing themselves as the official coursepack producer for Georgia State University. And the e-mail was informing the faculty that that was not the case. And included in the e-mail were suggestions that instead of using The Print Shop for coursepacks they could use the local real GSU official service or use electronic reserves.

Q. And do you recall was there any noticeable faculty response to that e-mail?

A. Not really, not that I could tell.

Q. You say in the next paragraph of this e-mail in the middle, another problem with the coursepacks has been that the publishers have been going up on what they charge for copyright royalties in the last few years.

Why is the royalty payment a problem?

A. Because it makes the coursepack too expensive for the students.

Q. And why is that a problem?

A. Why is that a problem, they complain too much I guess to the professor and the professor changes their mind, I guess.

Q. You go to say there's no charge -- well, you provide some costs again for the coursepack. You say here the basic cost is 6 cents per page.

Did it drop from the 8 we saw in the previous?

A. That's what I charge the bookstore. I'm referring to -- I think I include later the one third markup.

Q. So these are the pre-markup costs?

A. Right.

Q. Did you believe it was preferable for Professor Kript to use electronic reserves rather than the coursepack?

A. Well, I felt that as a new instructor I should make her aware of the electronic reserves service. I guess at this time I was thinking I should encourage her to use that, but mainly wanted her to know we had both services available.

Q. But you believed, didn't you, that electronic reserves was preferable because it was cheaper?

A. Well, just -- if that's the only consideration, yes. If that's the main consideration, yes.

Q. Well, was that -- what other consideration was there?

A. Some instructors still prefer to have the coursepacks printed and have their students not have to go through getting online and downloading the file and printing it out themselves.

Q. Let me ask this again. Just looking at the e-mail overall and not any particular line. But you essentially say here that a coursepack could cost -- will cost you 15 to 20 cents a page, could cost $100 a copy and you say there's no charge for electronic reserves other than five cents of page printed and the first 100 pages are free.

It's fair to say that you were providing her these numbers because you thought electronic reserves was a good option for her to consider?

A. Well, I wanted her to be aware of the option if she wanted to consider that.

Q. Putting your own view aside, are you aware of whether there's a preference among GSU administrators as to whether professors should use a coursepack or electronic reserves?

A. Only in the general sense that there's been a long standing trend to try to move things away from printing to online, and that includes like the catalogue and schedule of classes and registration appointment cards.

In general it's part of the trend of going green and green, less paper. And also cutting costs because we're in pretty tight budget times now.

Q. Do you have a sense of whether it's important to GSU to provide services that, you know, students are happy with and don't complain about?

A. I think that is important.

Q. And why so?

A. Well, they're our customers.

Q. I'm going to mark as Plaintiffs' 49 document bearing the Bates number Georgia State 0038623.

(Plaintiffs' Exhibit No. 49 was marked for identification by the reporter.)

BY MR. LARSON:

Q. Do you recognize this document?

A. I have a vague memory of it.

Q. Okay. This is an e-mail between you and a Professor Frantz, is that right?

A. Well, it's from Professor Frantz to library reserve staff.

Q. And then forwarded to you?

A. And they asked me about it.

Q. Just turn to page 2, if you would. There's a -- in the middle of the page an e-mail from Professor Frantz to EReserves on 7/6/2007.

A. Yes.

Q. Thank you very much for providing a great electronic reserves program. My students and I like the convenience and the cost.

Did you hear that sentiment from others?

A. Yes, I did.

Q. Did you hear it commonly?

A. Yes, I did.

Q. Do you agree?

A. Yes, I do.

Q. Mark as Plaintiffs' 50 a document that begins with Bates number Georgia State 0023163 and runs through 23179.

(Plaintiffs' Exhibit No. 50 was marked for identification by the reporter.)

BY MR. LARSON:

Q. This is headed action plan 2007 development approved by the planning development committee.

Mr. Palmour, do you recognize this document?

A. No, I do not.

Q. Just have you look at one piece to see if you have any independent knowledge of it.

Would you look at page 10 of this document, which is Bates number 172. There's a paragraph three or four paragraphs down, it starts the university library.

Says -- it describes a major physical transformation, and then the last sentence of that paragraph says the transformation project will address the increasing role of technology in providing library services. This shift was reflected in a 30 percent decline in use of print reserves while electronic reserves increased 18 percent and a decrease of six percent in regular circulation while media circulation increased 16 percent.

Are these statistics that you've seen before?

A. No.

Q. Do you have any independent knowledge of whether they're accurate?

A. No.

Q. Do you have any independent knowledge of -- well, strike that. We'll move on. Give me just one moment.

You have an account with the Copyright Clearance Center, is that correct?

A. Yes.

Q. Why do you have that account?

A. We get copyright permissions through them for some of the coursepacks that we print.

Q. Any other activities other than coursepacks?

A. No.

Q. How do you access or deal with Copyright Clearance Center?

A. Get online over the web and access our account.

Q. Okay. Do you ever talk to them by phone or deal with an account rep or anything like that?

A. Only once in the last year or two when I was getting the name changed and the e-mail address changed from Phil Williams to me.

Q. Are you familiar with something that they have called the academic permission service?

A. A little bit.

Q. Tell me what you know about that.

A. Well, like -- I guess I don't really know a whole lot about it. Just basically --

Q. Do you use it?

A. Well, I'm not sure which part of their service you're talking about.

Q. Well, tell me how you use the CCC services.

A. We enter the information for a course and the coursepack that we're making and including the instructor, the estimated number of students and then we enter an item for each copyrighted work that we would like to include. And then it comes back and gives the price that would be charged for that.

Q. Okay. And you do this for every entry in a given coursepack, every work that's to be included?

A. Not through the Copyright Clearance Center. They only handle a few of them.

Q. So do you look up to see if it's a work that they cover?

A. Yes. If I were to get a new coursepack I would first go to Copyright Clearance Center to see what they could provide permission for.

Q. Because you're repeating coursepacks you know that they only handle certain of the works in those coursepacks?

A. Correct.

Q. Just give me a sense of your experience using Copyright Clearance Center in terms of ease of use?

A. It's fairly easy to use, but they don't cover nearly enough that we need. They don't cover even a third or a half of what we use.

And they're a little bit more expensive, too, than going directly to the publisher.

Q. What is the -- if you had to put a ballpark percentage on it, what that percentage in terms of -- strike that.

You said that they don't cover a third to a half of what you need?

A. (Nods head affirmatively.)

Q. How much of what you need do they cover roughly?

A. Probably maybe a third.

Q. So two thirds they don't cover?

A. Correct.

Q. And for those you go directly to the publisher?

A. Correct.

Q. How long does it take when you seek permission from the Copyright Clearance Center to get an answer?

A. Some of them can be automatic. And then some of them require you to wait while they contact the publisher.

Q. And how long does that take?

A. It can vary in time from days to a week or two or more.

Q. Are your requests for permission ever rejected?

A. Yes.

Q. And in what sort of situation would that occur?

A. Sometimes the instructor may want to use more than the publisher would want to allow or through Copyright Clearance Center they may just not have that on file.

Q. So there's limits to how much they are able to license, how many pages or what amount of a book or something like that?

A. It depends on the publisher.

Q. Are you familiar with Copyright Clearance Center's blanket license that they offer?

A. A little bit. I read something about how you could pay a certain fixed fee and get all the approval you need.

Q. Is that anything you've ever considered?

A. I haven't looked into it.

Q. Has anyone at Georgia State, to your knowledge?

A. Not to my knowledge.

Q. So for those, recognizing that there are works that CCC doesn't license or aren't available through them, for those works that are available, are there any problems that you have encountered or encounter on a regular basis licensing?

A. With the Copyright Clearance Center?

Q. Yeah.

A. They have changed their policy to where they automatically bill you at a certain point in time. And that point can be before you even know how much you're going to sell. So that could be a problem.

Q. You mean after you've placed an order?

A. Yes. You have to -- when you place the order you have to indicate the number of copies you think you will sell.

Q. I see. And then is there a rebate or some money back if you sell less?

A. No.

Q. So you pay for your order?

A. Yeah.

Q. You mentioned that you get permission for coursepacks also directly from publishers?

A. Yes.

Q. And is that generally something you do just when it's not available through CCC?

A. CCC is usually my first choice because they're quicker usually and easier.

Q. Okay. If you need to go to the publisher, how do you do that?

A. Well, I look up the publisher contact information and create a fax form letter with the pertinent information and fax that to the publisher's fax number.

Q. And where do you find the information?

A. There's a publisher's directory catalogue in the library. I can also find it online.

Q. Mark Plaintiffs' 51.

(Plaintiffs' Exhibit No. 51
was marked for identification
by the reporter.)

BY MR. LARSON:

Q. So Plaintiff's 51 is a document that was actually produced in this litigation by plaintiffs to Georgia State. It bears Bates number CUP0000326. If you could look at page 2 of this.

Let me know if you recognize this document that's page 2?

A. Yes. This is on my standard permission form letters.

Q. So this was a situation where you sought permission directly from the publisher rather than through CCC?

A. Yes.

Q. And that was for a book titled "Materials Development And Language Teaching" by Brian Tomlinson?

A. Yes.

Q. And you say in the first sentence of the letter, I'd like to request permission to place the following materials for one term use in educational online electronic reserves.

Do you see that?

A. Yes, I do.

Q. So this is a situation where you sought permission for EReserves, right?
A. Yes, because it was such a large percentage of the work. I had forgotten about that.
Q. Do you recall other instances where you did that?
A. No, I don't.
Q. Now, if -- generally if an excerpt was this large, over 20 percent say, would it be the case that you would go to CCC or the publisher and get permission or just not put it on electronic reserves?
A. Normally we would tell the instructor that we would just not be able to put it on electronic reserves.
Q. Would you recommend the coursepack at that point?
A. I would offer that as an option.
Q. If you go back to the first page, you see this is a return letter from Cambridge to you, correct --
A. Right.
Q. -- granting permission?
A. Right.
Q. And charging you -- well, they tally up the pages as being 242 total pages that were used?
A. Right.
Q. And the charge for that is $4.84 per copy?

A. Right.

Q. So that's two cents per page, right?

A. Yes. Usually when I requested an entire book before usually it ends up being cheaper actually for some reason.

Q. And it ends up -- more you use the less per page?

A. Yeah. A couple times I've gotten permission to do an entire book and they would say, okay, for $5 per copy.

Q. Are you talking about coursepacks or EReserves?

A. Coursepacks.

Q. So let me just ask, in the examples we talked about before with Professor Selwood and Kript where you were comparing the cost of coursepacks to the cost of EReserves, why didn't you factor in a royalty cost for the EReserves use?

A. Because we normally don't make copyright permission and pay royalty fees for electronic reserves that are under the 20 percent guideline.

Q. So is it the position that if the excerpt is exactly the same but under 20 percent then in a coursepack you pay a permission but on EReserves you don't pay a permission, is that right?

A. Yes.

Q. Even though the excerpt is the same exact excerpt?

A. Yes.

Q. And is that going to change under the new policy, do you know?

A. Well, under the new policy -- well, in this case if someone wanted more than the library reserves thought was meeting the fair use guideline, I assume that they would also try to get permission from the publisher. That would be one option.

Q. But going forward for work under -- well, for the work that the professor believes is fair use --

A. Right.

Q. -- it will be posted on EReserves without a permission fee, correct?

A. Right.

Q. And if the same excerpt is put in a coursepack you'll continue to pay a permissions fee, correct?

A. Right.

Q. If you were to pay permissions fees for EReserves listings, do you have a budget for that?

A. No.

Q. Any way to recoup that fee from students?

A. There's no structure in place right now.

Q. Can you imagine a structure that could be used, student fees?
A. Yes, I could imagine you could make the student pay either with their Panther card or credit card before they have access to download a particular --
Q. Students already pay, they're paying to print, correct?
A. They pay five cents a page.
Q. Theoretically they could pay 10 cents or 15 cents if there was a royalty charge as well?
A. It's theoretically possible.
Q. When they print, how does that get charged to them, do you know?
A. They have to use their Panther card, their GSU card.
Q. And then it gets charged back to their account, student account?
A. Right.
Q. We'll mark as Plaintiffs' 52 a document that begins with Bates number Georgia State 0069500 to 000695.

(Plaintiffs' Exhibit No. 52 was marked for identification by the reporter.)

BY MR. LARSON:

Q. Mr. Palmour, do you recognize this document?
A. Yes, I do.
Q. What is it?
A. It's an e-mail exchange from me and Margareta Larsson who is one of the IEP instructors. Coursepack customer.
Q. Okay. Look at, if you would, the e-mail that starts at the bottom of page 1 and carries over to page 2.
This is an e-mail from you to Ms. Larrson, correct?
A. Yes.
Q. And you say in the second to the last sentence, probably the sooner the better since it will be good to know how much of the text they will allow under the 20 percent limit and if that will be acceptable to you. If not then we need to print it and I will need to know that fairly soon, like next week.
You see that?
A. Yes.
Q. What did you mean that?
A. Well, I meant that if the electronic reserves staff felt that the amount that she wanted to use from that book was too much, then we would then need to treat it as a coursepack and get permission and print it and

sell it through the bookstore.

Q. And so that means you would present it and pay permissions fees?

A. Yes.

Q. Why didn't you consider just allowing her to put it up on EReserves at the size it was and seeking permission for that use?

A. Well, because if they wanted us to pay it would be hard to set up something where we could collect that money. We don't have anything in place right now.

Q. So it was the lack of a mechanism for payment?

A. Right.

Q. Are you aware of any excerpts up on the EReserves systems that are over 20 percent?

A. Not -- not that I'm aware of.

MR. LARSON: Let me mark as Plaintiffs' 53 --

(Plaintiffs' Exhibit No. 53 was marked for identification by the reporter.)

BY MR. LARSON:

Q. -- a document bearing Bates number Georgia State 00038699.

Do you recognize this, Mr. Palmour?

A. Yes, I do.

Q. This is an e-mail chain between you and Professor Miller?

A. Yes.

Q. Just take a look -- reading up from the bottom on page 1, there's an e-mail in the middle from July 17th, 2006 from him to you. You see that?

A. Yes.

Q. Towards the end of that he says the book is 168 pages long which I believe makes the selection too long for EReserves?

A. Right.

Q. Is that because that 186 pages would be over the 20 percent rule?

A. The selection he wanted was 1 through 45, which would have been over the 20 percent of 168.

Q. I see. Right.

And then you say, your response to him in the e-mail of 9:08 a.m., that one is available through the Copyright Clearance Center but only through special order. I would have to order it before I know how much it would cost.

Are you talking about a coursepack there?

A. Yes.

Q. You say would it be better if you have one in an anthology that we could put on electronic reserves.

Why is that better?

A. Where is that?

Q. In the last sentence of that e-mail we were just looking at from July 19th.

A. I see. Because it may be that it's a smaller portion of the whole.

Q. Right. So if the anthology was 500 pages, then you'd be under 20 percent, is that what you were suggesting?

A. I suppose.

Q. So the same exact excerpt would be posted, it would just be drawn from a much larger book and thus okay?

A. I would think so.

Q. Okay. Have you read the complaint in this case, Mr. Palmour?

A. I have.

Q. I'm going to mark it. I believe this has been previously marked as Plaintiffs' 24.

(Plaintiffs' Exhibit No. 24
was marked for identification
by the reporter.)

BY MR. LARSON:

Q. Have you formed an opinion, Mr. Palmour, as to whether the allegations in the complaint are true?

MR. ASKEW: I'll object to that question. It's an awfully, awfully broad question and I think it's calling for him to reach legal conclusions. He's obviously not a lawyer and there's an awful lot of legal allegations made in this complaint.

MR. LARSON: Fair enough. Let me be more specific.

BY MR. LARSON:

Q. Have you formed an opinion as to whether -- let me have you refer to Exhibit 1, which is -- I'm sorry, you have to flip. It's in the middle two thirds of the way through the pack or so. See it?

A. I've got it.

Q. Have you looked at Exhibit 1 to the complaint?

A. Yes.

Q. And did you have occasion to look to see whether any of the works on Exhibit 1 were present on the EReserve system?

A. I did not go and double check myself.

Q. Have you formed any opinion as to whether the works alleged to have been on EReserves as spelled out on Exhibit 1 were in fact on the EReserve system?

A. I have not made a detailed study to ascertain whether that's definite or not.

Q. Do you know whether anyone else has?
A. I do not know.
Q. Okay. I'll have you turn to Exhibit 3 if you could. Do you recognize this page?
A. It looks like a course reserves page listing of documents from electronic reserves.
Q. Okay. And is this what the course reserves page currently looks like?
A. I do not know.
Q. Okay. But this was the form in place at one time?
A. Yes. You mean in general the layout?
Q. Yeah.
A. Yes.
Q. Take a look, if you would, just at the second listing there under the title column. You see where it says Anna Maria Alonzo?
A. Right.
Q. Is that a link to the left of the words there to a PDF file?
A. Yes.
Q. If you click that you would see that article that's listed there?
A. Yes.
Q. Any reason to think that if you clicked that

link you wouldn't get that article?

A. It should bring that article up, it should have when this was available.

MR. LARSON: Why don't we stop here.

THE VIDEOGRAPHER: Off the record at 2:12:36.

(Brief recess.)

THE VIDEOGRAPHER: This is tape five. We're back on the record at 2:22:24.

BY MR. LARSON:

Q. Going to mark as Plaintiffs' 54 a document bearing Bates number Georgia State 0038664.

(Plaintiffs' Exhibit No. 54 was marked for identification by the reporter.)

BY MR. LARSON:

Q. Mr. Palmour, do you recognize this document?

A. Yes, I do.

Q. And what is this?

A. This is an e-mail exchange between me and Kate Lippincott.

Q. Who's Kate Lippincott?

A. Kate Lippincott used to work in my group and work with me on producing coursepacks. And she went to another university to work and they were considering getting an electronic reserve system and were considering ERes and she was asking me questions about our usage of it.

Q. So let me direct you to the middle paragraph of your response, or I guess it's the second paragraph of your response starting with the number 1 there. You say how many times a copyrighted item has been on ERes. I'm assuming you are trying to comply with the rule that prevents the same copyrighted work from being used twice in a row in succeeding semesters.

What rule is that you're referring to there?

A. Well, I have heard that some people feel that that's necessary, that they can't use the same item more than one semester in a row or ever.

Q. And was that a rule that was ever in place at GSU?

A. No.

Q. I take it that's not a rule that's going to be in place with the new policy?

A. That's something that's going to be looked at with the new policy. There is a discussion on how long to leave something up.

Q. That was the deletion --

A. Yeah.

Q. -- discussion you were telling me about?

A. Yeah.

Q. But tell me if I'm wrong, but even if everything was deleted it could be rescanned for use in the following semester, correct?

A. That would be up to them to decide what their policy is going to be.

Q. And you're not aware of whether that's an issue that has been decided as of now?

A. I'm not aware that it has been decided.

Q. Okay.

A. It was my understanding -- it was my feeling that changing the password made the item unavailable to the group of people that had it for that period of time and that that was sufficient, according to the old Board Of Regents policy.

Q. So even if -- the class in the following semester it would be a new group of students accessing it in that semester?

A. Yes. And the old group would not have access any more.

Q. You say -- there's a sentence about eight lines down that says also there is a reporting feature that lists all the copyrights system wide.

You're referring there to a feature of the ERes software, is that right?

A. Yes, if you enter in all that information into the -- into that system.

Q. There's a place where you can put in information related to copyright permission, is that what this is getting at?

A. I guess that's what I was saying. I don't recall --

Q. Well, let me ask you, what does Docutek do in terms of tracking copyright permission information?

A. It's my understanding that it allows you to enter the publisher information and it will generate a copyright permission request.

Q. Okay.

A. I think it will let you track whether that's been responded to or not and what the cost associated with it is.

Q. And that goes to CCC?

A. Well, I believe that's the default, yes. I'm getting the two confused with -- the older Docuweb version had a separate system that would let you enter information about every publisher and generate a permission request for you. We didn't really look into this feature of Docutek's ERes all that much.

Q. Now, as you say down two sentences from the bottom, we restrict the total amount to 20 percent, total amount allowed to 20 percent but we never ask publisher's permission or pay royalty fees since we have no way to recoup costs.

Because you never asked permission there was nothing to track using these features?

A. Correct.

Q. Okay. You can put that one aside.

Now, there came a time when the EReserve system was open to the public or available to people beyond those who had the password for a class.

A. There was a bug in the software that allowed access without a password if you clicked on a certain spot on a certain web page and if you were using the Internet Explorer browser.

Q. When was that, that window of availability?

A. I think it began in the spring of 2006 when we installed the new version of WebCT that had a linkage feature to ERes that would keep the WebCT students who had already logged into WebCT and entered the user ID and password from having to enter another user ID and password to get into ERes. And when we installed that new version of WebCT that no longer worked, so we set up a work around in ERes that would allow that to work.

And it's the technical staff that Docutek felt that that was what allowed -- created the bug that allowed someone to get in without a password.

Q. I think we can do this probably more quickly this way.

Can we mark this as 55, Plaintiffs' 55. This is document bearing the Bates number Georgia State 0009694.

(Plaintiffs' Exhibit No. 55 was marked for identification by the reporter.)

BY MR. LARSON:

Q. Why don't you just quickly scan through this e-mail and let me just ask you this. Tell me if there's anything in this e-mail that's incorrect or that accurately describes the situation with the password issue, after you've had a chance to read it.

A. Right, I remember writing this. And I believe it to be correct.

Q. And just for the record, just tell me what this document is.

A. This is an e-mail from me to the library staff and Paula Christopher summarizing the problem with that bug.

Q. And was it eventually rectified?

A. Yes, it was.

Q. Do you know when it was rectified?

A. Not until about a year after -- well, it was -- let's see. The next to the last paragraph we implemented the change at the end of spring semester of 2007 that would correct the problem.
Q. So it was roughly a year?
A. Yes.
(Plaintiffs' Exhibit No. 56 was marked for identification by the reporter.)
BY MR. LARSON:
Q. I'm marking as Plaintiffs' 56 a very large stack of paper that has the Bates number GSU007945.012.XLS-000001 and it runs up through 000416.
Mr. Palmour, I'll represent to you that this was a report that was produced to us as part of the discovery in this matter by your counsel.
I should ask, are you aware that as part of discovery in this matter that some ERes reports were generated and produced to the plaintiffs?
A. Yes.
Q. Were you involved in that process at all?
A. Yes.
Q. How were you involved?
A. I ran some of those reports myself.
Q. And you did that based on date ranges that you

were provided?

A. Yes.

Q. Okay. And does this appear to be a sample of one of those reports?

A. I believe so. Or -- it would look the same whether I did it or someone else did it.

Q. Okay. So let's just take a look at this.

A. It may have been somebody else that ran it.

Q. Does this appear to you to be a report describing activity on the system between 8/16/2006 and December 31st of 2006?

A. Yes.

Q. And that's indicated in the date range column there, correct?

A. Yes.

MR. ASKEW: What was the date range again?

MR. LARSON: It's August 16th of '06 to 12/31/06.

BY MR. LARSON:

Q. And that appears in the header as well, correct?

A. Yes.

Q. And I think you said before you're not sure if that heading is something that's inputted by the user or generated by the system?

A. That looks like a file name or an Excel spread sheet file name or title name.

Q. Got it.

A. And I don't believe it's one that I typed in.

Q. Yeah, I'll again represent to you the documents were produced to us as Excel files with that title.

A. Okay.

Q. So this is a report as you said from late -- fall of '06 basically.

Take a look six lines down. There's an entry for G. L. Berry. Do you see that?

A. Yes.

Q. And then there's an entry for -- in the course reserves page column of that row, says Com 3070 introduction to theories of mass communications, paren, spring 2009 Hoffner.

A. Yes.

Q. Can you tell me how it is for a report detailing activity from the second half of 2006 there's a course page identified as spring 2009?

A. No, I can't. I don't know why it would do that unless they copied the same course reserve page that was used in the fall of 2006 to use again in the spring of 2009 and somehow the system still had it registered as --

Q. If they unarchive the old course page and update it and say spring 2009, that course page, that data would be reflected here?

A. I'm not sure. That's something I haven't really looked into the detail. But that could be the reason why it doesn't have the correct -- well, it doesn't say fall 2006 there. There's another one too, below that one.

Q. Just staying in that line for purposes of the question, the hit count, does that hit count reflect the hits that were recorded by the system during the date range?

A. I'm pretty sure that is the case. The hit count is restricted to that date range and not a previous semester that used earlier or currently.

Q. It's not a cumulative total of --

A. I do not believe so. I think it's just for the date range.

Q. Again, any reason you have to doubt the accuracy of these reports?

A. I wouldn't bet 100 percent that it's, you know, guaranteed absolutely correct. It may be that their software is in error on some of this reporting. I mean, I have no way of knowing that for sure.

Q. But is there any reason that you think it would be?

A. Well, they had bugs in their software before, so I mean --

Q. And you've used these reports to provide people in the library and your superiors with --

A. Yes. Yes.

Q. -- data and various activity on the system?

A. Yes. Yes. As far as I know, it should be accurate.

Q. Okay. Flip if you could, I want to point out a few entries to you. Turn to page -- let's see. Turn to page 64.

MR. ASKEW: 64?

MR. LARSON: Yeah.

BY MR. LARSON:

Q. You there?

A. Yes.

Q. Okay. Take a look at the last entry, the R. Bishop entry?

A. Right.

Q. So does this entry here reflect the fact that an article by R. Bishop from the Sage "Handbook Of Qualitative Research" comprising pages 109 to 138 was provided to students in EPS 9280 in the fall of 2006?

A. Yes. Yes.

Q. And it was hit 32 times?

A. Yes.

Q. Okay. Flip to page 89, please. Just tell me when you're there.

A. Okay.

Q. There's an entry about six up from the bottom called "Changing The System".

A. Okay.

Q. You see that?

A. Yes.

Q. So does this reflect the fact that Chapter 2 and 7 of "Changing The System", Sage Publications book, were on the system, on the EReserve system during the time period reflected on this report?

A. Yes, if the title is correct.

Q. And by that what do you mean if the title is correct?

A. Well, it's possible that whoever entered this in may have copied that file incorrectly or something or --

Q. Any reason to believe that that happened with any regularity?

A. No, not really.

Q. And it's the case, isn't it, if that had happened that someone most likely would have alerted the professor that --

A. Yeah, yeah, and the professor would have alerted the library staff that it was incorrect, possibly.

Q. And this report reflects that that excerpt was hit 24 times during the time period of this report?

A. That's correct.

Q. Turn to page 93, please. Okay. And then look in the middle, there's a Chapter 25 "Rethinking Observation For Method Context". Do you see that?

A. Yes.

Q. So does this reflect the fact that that was, that a chapter of that name from the Sage "Handbook Of Qualitative Research" was available on the system during the time period of this report?

A. Yes.

Q. And it was hit 52 times?

A. Yes.

Q. Okay. And again, this -- it was offered to students in a class called sociology 8342?

A. Yes.

Q. Now, again you have no way to know whether -- it says fall 2008 here for that course reserves page, right?

A. Right.

Q. But the hit as you said before would be hits from the 2006 period?

A. From that date range.

Q. Okay. And is it possible that that's because sociology 8342, the same course page was offered in the fall 2006 as well?

A. That may be the case.

Q. Turn to page 98, if you would. Look at the first entry. Does this reflect the fact that an article by an S. Chase called "Narrative Inquiry" in the Sage "Handbook Of Qualitative Research" was provided to students in EPS 9280 in the fall of 2006?

A. Yes.

Q. And it is hit 57 times?

A. Yes.

Q. Okay. And go to page 102. And look at the second entry when you get there.

A. Okay.

Q. Does this entry here reflect the fact that an excerpt called "Defining Psychological War And World War And Early Modern Communication Research" by Christopher Simpson were made available to students in Com 8100 in the fall of 2006?

A. Yes.

Q. And hit 71 times by students in that class?

A. Yes.

Q. And if you could turn to page 149.

MR. ASKEW: 149?

MR. LARSON: Yeah.

BY MR. LARSON:

Q. And look at the fourth entry.

A. Okay.

Q. You see an entry that starts with Ethan Scheiner, S-C-H-E-I-N-E-R?

A. Yes.

Q. Does this reflect the fact that Chapter 2 of Ethan Scheiner's "Democracy Without Competition" were made available in the time period covered by this report?

A. Yes.

Q. And hit eight times?

A. Yes.

Q. Turn to the last page, please. You see the totals at the end?

A. Yes.

Q. And does this reflect the fact that the works listed in this report were hit 125,531 times during the date range on this report?

A. Yes.
Q. Put that aside.
(Plaintiffs' Exhibit No. 57 was marked for identification by the reporter.)
BY MR. LARSON:
Q. Let's mark this as Plaintiffs' 57. This is a document Bates labeled GSU007945.004.XLS-00001 and running through 00401.
Mr. Palmour do you recognize this as another one of the reports that was generated by the EReserve system for use in the litigation?
A. Yes.
Q. And I'll represent to you this was like the one we just looked at produced by your counsel. And this one reports activity from January 1st of 2007 to May 15th, 2007 on the EReserve system, correct?
A. Yes.
Q. Incidentally while I have you here, I don't have an example in front of me, but are you aware that occasionally in the course reserves page your name will appear?
A. Where did you see it?
Q. I've seen it in reports. I don't have an example here, I apologize. Is that something that

you're aware of that Palmour will appear with a listing in the course reserves page?

A. I set up a test class that has my name associated with it. That's probably where it's coming from.

Q. When did you do that?

A. Well, last November I set up -- I tried to set up a test course reserves page that would have all documents in it. I tried to add every document in the system into that course reserves page. I thought it would be easier.

Q. For purposes of the litigation?

A. For creating reports. But it turned out that you could not access that page once you put everything in it. Lock up the system when you tried to get to it.

Q. Just given the size?

A. Yeah. Yeah. So I guess I should have just deleted it, but I was under orders not to delete anything so I just left it up there.

And we made it -- for a while it was accessible and it may have shown up in some reports, but we made it inaccessible so it shouldn't be interfering with the reports now.

Q. So that was done in an effort to provide reports --

A. Yes.

Q. -- on activity on the system?

A. Yes. A failed attempt.

Q. Can you turn to page 89 of this report.

A. Okay.

Q. Look three up from the bottom, there's an entry in the document column for Susan Chase?

A. Right.

Q. Does this reflect the fact a chapter called "Narrative Inquiry" by Susan Chase from the Sage "Handbook Of Quantitative Research" was provided to students during the time period covered by this report?

A. Yes.

Q. And it was hit 13 times?

A. Yes.

Q. Okay. If you can turn to 151.

A. Okay.

Q. And take a look at the first entry, first two. Do those reflect the fact that Chapters 9 and 10 of Allwright and Bailey's "Focus On The Language Classroom" were provided to students in AL 8900 during the date range of this report?

A. Yes.

Q. And hit 13 and 15 times respectively?

A. Yes.

Q. Okay. And does it also reflect the fact, looking to the fifth entry, that a chapter called "The Interview", Chapter 24 by Fontana and Frey from the "Handbook Of Qualitative Research" was provided to students in AL 8961 in the spring of '07?

A. Yes.

Q. And hit 19 times?

A. Yes.

Q. Turn to 153.

A. Okay.

Q. And if you look at the entry in the middle for Fredrickson. Do you see that?

A. Yes.

Q. Does this reflect that pages 3 to 53 of George Fredrickson's "White Supremacy" was provided to students in history 1112 during the time period of this report?

A. Yes.

Q. And hit eight times?

A. Yes.

Q. Turn to 231, please.

A. Okay.

Q. And look at the fourth line down.

A. Okay.

Q. Does this reflect the fact that a Chapter 6 called "Paradynamic Controversies" by Lincoln and Guba from the "Handbook Of Qualitative Research" was provided to students in AL 8961 during the time period of this report?

A. Yes.

Q. And hit four times?

A. Yes.

Q. Not too many of these left.

Look at page 342.

A. Okay.

Q. Look at the first two entries if you could.

A. Okay.

Q. Does this reflect the fact that a chapter called "Qualitative Case Studies" by an R. Stack from the Sage "Handbook Of Qualitative Research" was provided to students in EPS 8900 during the time period of this report?

A. Yes.

Q. Hit 89 times?

A. Yes.

Q. And a chapter also by -- well, a chapter by Robert E. Stack, Chapter 16 from the "Handbook Of Qualitative Research" called "Case Studies" was provided to students in AL 8961 during the period covered by this report?

A. Yes.

Q. Hit 17 times?
A. Yes.
Q. Okay. And one more here.
Page 353.
A. Okay.
Q. See there's an entry 7 down by Tedlock.
A. Okay.
Q. Does this reflect the fact that Chapter 17 by Barbara Tedlock called "Ethnography And Ethnographic Representation" from the "Handbook Of Qualitative Research" was provided to students in AL 89611 during the period covered by this report?
A. Yes.
Q. And it was hit five times?
A. Yes.
Q. And let's go to the last page. And see the totals line there?
A. Yes.
Q. Does this reflect the fact that during the time period covered by this report the works detailed in this report were hit collectively 111,314 times?
A. Yes.
Q. Let's mark this as 58.
(Plaintiffs' Exhibit No. 58 was marked for identification

by the reporter.)

BY MR. LARSON:

Q. All right. Mr. Palmour, do you recognize this as another report similar to those we were just looking at?

A. Yes.

Q. And this is for the time period August 16th, 2007 to December 31st, 2007?

A. Yes.

Q. Okay. I'll represent to you that this was produced to us by your counsel during discovery. Starts with Bates number GSU007945.013.XSL-000001 through 437.

If you turn to page 26. Look at the first two entries.

A. Okay.

Q. You there?

A. Yep.

Q. Does this reflect the fact that Chapter 6 from L. E. Berk's "Awakening Children's Minds" was provided to students during the time period represented by this report?

A. Yes.

Q. And it was hit 35 times?

A. 35 for the first half and 23 for the second half for some reason.

Q. And I should clarify my question. Together there's -- the two excerpts are pages 181 to 199 of Chapter 6 and then pages 200 to 219?
A. Yes.
Q. Okay. Can you turn to page 67.
A. 67?
Q. Yeah.
A. Okay.
Q. Look at the fourth entry.
A. Okay.
Q. And does this show that J. Beverley's "Testimonio Subalternity, And Narrative Authority" in the Sage "Handbook Of Qualitative Research" was offered to students during the time period covered by this report?
A. Yes.
Q. And it was hit 68 times?
A. Yes.
Q. And go to page 69.
MR. ASKEW: Page what?
MR. LARSON: 69.
THE WITNESS: Okay.
BY MR. LARSON:
Q. The first entry, does this reflect the fact that R. Bishop's chapter "Freeing Ourselves From

Neocolonial Domination And Research" from the Sage "Handbook Of Qualitative Research" pages 109 to 138 were offered to students during the time period covered by this report?

A. Yes.

Q. It was hit 89 times during that time period?

A. Yes. Yes.

Q. Look at 97, please.

A. Okay.

Q. Look down about six lines, there's an entry for "Changing The System".

A. Okay.

Q. Does this entry reflect that "Changing The System" Chapters 2 and 7 Sage Publications book was offered to students during the time period covered by this report?

A. Yes.

Q. And it was hit 10 times during that time period?

A. Yes.

MR. ASKEW: Where was that?

MR. LARSON: I'm sorry. It was six entries down.

BY MR. LARSON:

Q. Okay. Turn to page 100, please.

A. Okay.
Q. First entry.
A. Okay.
Q. Does this reflect that Chapter 25 from the Sage "Handbook Of Qualitative Research" called "Rethinking Observation For Methods Context" by Angrosino and Mays de Perez was offered to students in sociology 8342 during the date range displayed on this report?
A. Yes.
Q. It was hit nine times?
A. Yes.
Q. Okay. Turn to page 102, please. Look at the bottom entry.
A. Okay.
Q. Does this reveal the fact that a chapter by S. Chase called "Narrative Inquiry" from the Sage "Handbook Of Qualitative Research" pages 651 to 679 was offered to students during the time period covered by this report?
A. Yes.
Q. And it was hit 133 times?
A. Yes.
Q. Actually stay on that page for a second. Go up to there's an entry for Charmez five lines up, six lines up, you see that?

A. Yes.
Q. Talking about the first of the two Charmez entries.
Does that reflect the fact that Chapter 3, a chapter called "Coding And Grounded Theory Practice" was presented to students during the time period of this report?
A. Yes.
Q. Hit 30 times?
A. Yes.
Q. And it was for students in EPRS 3020?
A. Yes.
Q. Go to 156, please.
A. 156?
Q. Uh-huh.
A. Okay.
Q. See two entries about six or seven lines up for Ethan Scheiner?
A. Yes.
Q. Does this reflect the fact that pages 31 to 63 or Chapter 2 of Ethan Scheiner's "Democracy Without Competition" were provided to students in POLS 4255 during the fall 2007 semester?
A. Yes.
Q. Hit six times?

A. Yes.

Q. And that the same excerpt was also hit once in connection with POLS 4256?

A. Yes.

Q. Can you go to page 167, please. Look at the third and fourth lines.

A. Okay.

Q. Does this reflect the fact that Chapters 9 and 10 from "Focus On The Language Classroom" by Allwright and Bailey was provided to students in AL 8900 during the time period covered by this report?

A. Yes.

Q. And hit 14 and 19 times respectively?

A. Yes.

Q. Can you go to 169, please.

A. Okay.

Q. Can you look at the first entry.

A. Okay.

Q. Does this reflect the fact that a chapter by G. Fox called "Using Corpus Data In The Classroom" from a book called "Materials Development And Language Teaching" pages 25 to 43 was offered to students in AL 8660 during the fall 2007 semester?

A. Yes.

Q. And hit 46 times?

A. Yes.

Q. Okay. 229, please.

A. 229?

Q. Uh-huh.

A. Okay.

Q. Go down five entries, there's one that starts with Jolly.

A. Okay.

Q. Does this entry reflect the fact that a chapter by D. Jolly and R. Bolitho called "A Framework For Materials Writing" from the book "Materials Development And Language Teaching" pages 90 to 115 was offered to students in AL 8660 in the fall 2007 semester?

A. Yes.

Q. And hit eight times?

A. Yes.

Q. 324, please.

A. Okay.

Q. And look at the second entry.

A. Okay.

Q. Kay Plummer. Does this represent the fact that a chapter by Kay Plummer called "Critical Humanism And Queer Theory, Living With The Tensions" from the Sage "Handbook Of Qualitative Research" pages 357 to 373 was provided to students in EPS 8500 during the time period covered by this report?

A. Yes.

Q. It was hit 36 times?

A. Yes.

Q. And that it was -- that the same excerpt, if you look at number 3, was hit 69 times also in connection with EPS 8900?

A. Well, let's see. Is it the same?

Q. The second one indicates pages 357 to 375.

A. Yeah, the second one is two pages longer for some reason. But yes, I see what you're saying.

Q. So both of those would have been posted?

A. It looks like it, yeah.

Q. Okay. One hit 36 times and one hit 69?

A. Yeah. A mistake there.

Q. Turn to 331, please.

A. Okay.

Q. And look five lines up.

A. Okay.

Q. Does this reflect that a chapter by P. Prowse called "How Writers Write, Testimony From Authors" in the book "Materials Development And Language Teaching" pages 116 to 129 was provided to students in AL 8660 during the time period covered by this report?

A. Yes.

Q. And it was hit 12 times during that time period?

A. Yes.

Q. Turn to 371, please. First two entries.

A. Okay.

Q. Do those two entries reflect the fact that Chapters 4 and 7 of "Slave Community" -- I'm sorry, "The Slave Community" by John Blassingame were provided to students in AAS 3000 during the time period covered by this report?

A. Yes.

Q. Chapter 7 was hit 67 times during that period?

A. Yes.

Q. Chapter 4 was hit eight times?

A. Yes.

Q. Page 378, please.

A. Okay.

Q. Four lines up from the bottom you see an entry by R. Stack?

A. Okay.

Q. Does this reflect the fact that a chapter called "Qualitative Case Studies" from the Sage "Handbook Of Qualitative Research" pages 443 to 465 by R. Stack were presented to students in EPS 8500 during

the time period covered by this report?
A. Yes.
Q. And hit 49 times?
A. Yes.
Q. One more here. Page 401, please. Do you see the third and fourth entry?
A. Okay.
Q. Does this reflect the fact that Chapters 1 and 2, these two entries combined, Chapters 1 and 2 of "States And Social Revolutions" by Theda Skocpol were provided to students in POLS 8200 during the time period covered by this report?
A. Yes.
Q. And Chapter 1 was hit three times and Chapter 2 was hit twice?
A. Yes.
Q. Go to the last page, please.
A. Okay.
Q. You see the totals line at the bottom?
A. Yes.
Q. Does this reflect the fact that the excerpts in this report were hit a combined total of 124,244 times during the date range covered by this report?
A. Yes.
Q. Okay. Got one more of these. Do you want to

take a breather?

A. It doesn't matter to me.

Q. Or work through one more?

A. Go ahead and finish the next one.

Q. Okay.

(Plaintiffs' Exhibit No. 59 was marked for identification by the reporter.)

BY MR. LARSON:

Q. We'll mark this as Plaintiffs' Exhibit 59. And this is Bates numbered GSU007945.005.XSL-000001 through 377.

Mr. Palmour, this is another report like the last few that were provided to us by your counsel. And do you recognize this as a report of the EReserve system?

A. Yes.

Q. And this is providing details of activity between 1/1/2008 and 5/15/2008?

A. Okay.

Q. Is that right?

A. Yes.

Q. Okay. Take a look, if you would, at page 44.

A. Okay.

Q. Six lines down.

A. Okay.

Q. See Beverley? Does this reflect the fact that J. Beverley's chapter called "Testimonio Subalternity And Narrative Authority" from the Sage "Handbook Of Qualitative Research" pages 547 to 557 was offered to students in EPS 8500 during the time period covered by this report?

A. Yes.

Q. And it was hit 16 times?

A. Yes.

Q. If you turn to page 46.

A. Okay.

Q. The second line down, does that reflect the fact that a chapter by R. Bishop called "Freeing Yourselves From Neocolonial Domination And Research" from the Sage "Handbook Of Qualitative Research" pages 109 to 138 was provided to students in EPS 8500 during the time period covered by this report?

A. Yes.

Q. It was hit 20 times during that time period?

A. Yes. Yes.

Q. If you could turn to page 77, please.

A. Okay.

Q. Does this reflect the fact that -- I'm sorry, look two lines up from the bottom.

A. Okay.
Q. Does this reflect the fact that a chapter called "Narrative Inquiry" by S. Chase from the Sage "Handbook Of Qualitative Research" pages 651 to 679 was offered to students in EPS 8500 during the time period covered by this report?
A. Yes.
Q. And it was hit 10 times?
A. Yes.
Q. And does this reflect the fact, in going down one line --
A. Yes.
Q. -- that a chapter by Susan Chase of the same name, same book was hit 58 times during this time period?
A. Yes. That's a different class, though. One was by Kaufmann and the other one was Esposito.
Q. You're right. In the first class one is EPS 8500 and one is EPRS 8500?
A. Yes. Yes.
Q. Can you go to page 93, please.
A. All right.
Q. You'll see three entries by Cox and McCubbins.
A. Okay.
Q. Do those three entries, they're the second,

third and fourth up from the bottom, reflect the fact that Chapters 5, 7 and 8 of Cox and McCubbins "Legislative Leviathan" were provided to students in POLS 8170 during the time frame covered by this report?

A. Yes.

Q. Chapter 5 was hit three times and Chapter 7 once and Chapter 8 once?

A. Yes.

Q. If you could look at 129, please.

MR. ASKEW: On the last one you're looking at Cox, Cox and Cox or were you looking at Cover and Cox, Cox and Cox?

BY MR. LARSON:

Q. Let's just clarify. I was looking at the three entries, the second from the bottom, third from the bottom and fourth from the bottom. Is that what you understood me to be referring to?

A. Yes.

Q. If you could look at page 129.

A. Okay.

Q. Again, second, third -- actually the four lines counting up from the bottom.

A. Okay.

Q. Do those lines reveal that the introduction and Chapters 2, 3 and 4 of "Feminist Media Studies" by

Liesbet -- either Zoonen van Liesbet or Liesbet van Zoonen, I'm not sure which, were provided to students in JOU 4780 during the time frame covered by this report?

A. Yes.

Q. And Chapter 2 of the book was hit 78 times?

A. Yes.

Q. And Chapters 3 and 4 were hit two and one times respectively?

A. Yes.

Q. And the introduction was hit 37 times?

A. Yes.

Q. And that's a book by Sage Publications?

A. Yes.

Q. Can you turn to 270.

A. Okay.

Q. And see there's two entries for Plummer in the middle of the page?

A. Okay.

Q. Does the first reflect the fact that a chapter called "Critical Humanism And Queer Theory, Living With The Tensions" from the Sage "Handbook Of Qualitative Research" pages 357 to 373 by Kay Plummer provided to students in EPS 8500 during the time period covered by this report?

A. Yes.

Q. And that excerpt was hit seven times?
A. Yes.
Q. And that a chapter by Kay Plummer from "The Handbook Of Ethnography" called "The Call Of Life Stories And Ethnographic Research" was provided to students in EPRS 8500 during the time period covered by this report?
A. Yes.
Q. And hit 71 times?
A. Yes.
Q. Page 287, please.
A. Okay.
Q. First entry.
A. Okay.
Q. Does this reflect the fact that a chapter by L. Richardson called "Writing Is A Method Of Inquiry" from the Sage "Handbook Of Qualitative Research" pages 959 to 978 was provided to students in EPRS 8510 during the date range specified in this report?
A. Yes.
Q. And it was hit 73 times?
A. Yes.
Q. Page 311, please.
A. Okay.
Q. You will see two entries for "Slave Community"

in the middle of the page?

A. Yes.

Q. Those entries reflect the fact that Chapters 4 and 7 of John Blassingame's "The Slave Family" -- I'm sorry, strike that.

These entries reflect the fact that Chapters 4 and 7 of John Blassingame's "Slave Community" were offered to students in AAS 3,000 during the time frame covered by this report?

A. Yes.

Q. Chapter 7 was hit 83 times, Chapter 4 was hit 14 times?

A. Yes.

Q. Page 313, please.

A. Okay.

Q. If you could look at the first entry.

A. Okay.

Q. Does that entry reflect that a chapter called "Relativism Criteria And Politics" by J. Smith and P. Hodkinson from the Sage "Handbook Of Qualitative Research" pages 915 to 932 was offered to students in EPS 8500 during the time frame covered by this report?

MR. ASKEW: What page are you on?

MR. LARSON: 313.

MR. ASKEW: I thought you said 315.

You're on 313?

THE WITNESS: Yes.

BY MR. LARSON:

Q. Let me ask the question again. That first entry on page 313, does that reflect the fact that a chapter called "Relativism Criteria And Politics" by J. Smith and P Hodkinson from the Sage "Handbook Of Qualitative Research" pages 915 to 932 was offered to students in EPS 8500 during the date range covered by this report?

A. Yes.

Q. And that chapter was hit four times?

A. Yes.

Q. And page 337.

A. Okay.

Q. Two up from the bottom, second and third up from the bottom.

A. Okay.

Q. Do those two entries reflect the fact that Chapters 4 and 7 from John Blassingame's "The Slave Community" were offered to students in AAS 4030 during the time frame reflected by this report?

A. Yes.

Q. Chapter 7 was hit twice and Chapter 4 was hit five times?

A. Yes.

Q. Could you turn to the end, please.

A. Okay.

Q. And do the totals at the end reflect the fact that works in this report were hit cumulatively 100,514 times during the time frame of this report?

A. Yes.

MR. LARSON: Okay. This would be a good time to take a break and I think I can -- we won't have much left.

THE VIDEOGRAPHER: Off the record at 3:16:09.

(Brief recess.)

THE VIDEOGRAPHER: Back on the record at 3:30:52.

BY MR. LARSON:

Q. Mr. Palmour, just one question. We just went through a number of EReserves reports and looked at some works posted on the system.

What would be involved in actually trying to, you know, get ahold of the PDF files of the examples that we just walked through?

A. What do you mean?

Q. Are they available?

A. The PDF files are still somewhere on the ERes server, yes.

Q. So they could be identified and gathered if need be?

A. Yes, they could be.

Q. Okay.

(Plaintiffs' Exhibit No. 60 was marked for identification by the reporter.)

BY MR. LARSON:

Q. Mark Plaintiffs' 60.

So what you're looking at, Mr. Palmour, I will represent to you that yesterday, which I believe was the 22nd, you see down there in right hand corner, I went on the publicly available GSU ERes web site, at least the portions of it that are publicly available, and entered some search terms, in this case "slave family" and this is what was produced.

Do you recognize this interface revealed in this document?

A. Yes.

Q. Tell me what this is?

A. This is the results of a search on the ERes system.

Q. That's a functionality offered by the system, a search functionality?

A. Yes.

Q. And it's the case you can search in different ways, is that right?

A. That's correct.

Q. And those ways that you can search are indicated by the four tabs that we see here in the middle of the page?

A. Yes.

Q. You can search for course reserves page?

A. Yes.

Q. You can search by department, correct?

A. Correct.

Q. You can search by instructor?

A. Correct.

Q. And you can search by title or author?

A. Correct.

Q. Okay. And you enter search criteria in the field in the middle next to the search button, is that right?

A. That's correct.

Q. So this particular search that was entered here would call up where instances when the word "slave family" appeared in any of the fields?

A. Okay.

Q. Is that correct?

A. Yes.

Q. Okay. And then what do we see in the lines of the report, for lack of a better word, what do those reveal?

A. Those show the course numbers and course names that used those documents.

Q. Okay. So the first entry, for example, here shows that Professor Dixon is teaching a course called African American Family and providing students with Chapter 4 of John Blassingame's "The Slave Community"?

A. Yes.

Q. And the next page reveals that -- I'm sorry, the next entry reveals the same chapter being provided by Professor Dixon in AAS 4030?

A. Yes.

Q. Does this show -- are the results that are returned here for the current semester?

A. Yes.

Q. And would the results of a search like this basically show anything that's currently accessible to students?

A. Yes.

Q. And in this case that's all spring 2009 classes?

A. Yes.

Q. So on the second page do those two entries show that Professor Dixon is offering Chapters 4 and 7 of "The Slave Community" to students in -- I'm sorry, strike that.

The second page, does the second page shows Professor Dixon is offering Chapter 7 of "The Slave Community" to students in AAS 2000 and AAS 4030?

A. Yes.

Q. Now, the third page -- I will represent to you I put together the pages here from several searchs that I ran. Third page is a different search from the one represented on the first two pages.

You see here this was a search for Liesbet van, L-I-E-S-B-E-T space van?

A. Yes.

Q. And did the two entries that you see here reveal that Professor Meyers is providing students in JOU 4780 with Chapters 3 and 4 of "Feminist Media Studies"?

A. Yes.

Q. A Sage Publications book?

A. Yes.

Q. And if you flip to the next page those entries show that she's providing Chapter 2 and the introduction to that same book --

A. Yes.

Q. -- to students in JOU 4780?

A. Yes.

Q. And then I'll represent to you that the next two -- next three pages -- I'm sorry. Next single page is the results of another search that I ran yesterday searching on Susan Chase.

Does the line in the report indicate that Professor Esposito is providing students in PRS 8500 with a chapter by Susan Chase called "Narrative Inquiry" from the Sage "Handbook Of Qualitative Research"?

A. Yes.

Q. Go to the next page. This is another search that we ran yesterday. Again, I'll represent that this is a printout of the search results when I searched on the term Kincheoloe. K-I-N-C-H-E-L-O-E.

Does the entry on this search return indicate that Professor Esposito is providing students in EPRS 8500 with a chapter by J. L. Kincheoloe and P. McLaren called "Rethinking Critical Theory And Qualitative Research" from the Sage "Handbook Of Qualitative Research"?

A. Yes.

Q. And finally the last page, this was a search -- I'll represent to you this was a printout of search results using the same functionality using the search terms "method of inquiry".

Does the entry in the search results there indicate that Professor Kaufmann is providing students in EPRS 8510 with a chapter by L. Richardson called "Writing Is A Method Of Inquiry" from the Sage "Handbook Of Qualitative Research"?

A. Yes.

Q. We'll mark Plaintiffs' 61.

(Plaintiffs' Exhibit No. 61 was marked for identification by the reporter.)

BY MR. LARSON:

Q. This is a document that was produced in discovery and for some reason when it was printed the Bates number didn't show up, but I have the Bates number. It is OUP 0011.

MR. ASKEW: OUP what was it?

MR. LARSON: OUP 0011928 to 929. Two pages.

BY MR. LARSON:

Q. And these were produced by plaintiffs in discovery, Mr. Palmour. Again, printouts from the GSU EReserves system displaying the results of searches that were done by the plaintiffs on the system.

Do you recognize this as the same search interface as we were looking at on the previous page?

A. Yes.

Q. And this appears to be a search for the term "slave community", is that right?

A. Right.

Q. And does this indicate that Professor Dixon in the spring of 2008 provided students in AAS 3000 with Chapters 4 and 7 of John Blassingame's "The Slave Community"?

A. Yes.

Q. And does it reveal that she provided students in AAS 4030 with those same two chapters --

A. Yes.

Q. -- in the spring of 2008?

A. Yes.

(Plaintiffs' Exhibit No. 62 was marked for identification by the reporter.)

BY MR. LARSON:

Q. Plaintiffs' 62. And the Bates number on this -- I'll represent that was a document produced by plaintiffs in litigation with Bates number CUP 0015758 to 0015759.

Mr. Palmour, do you recognize this as being the same search interface from previous exhibits?

A. Yes.

Q. And that it's showing the results of a search for "Leviathan"?

A. Yes.

Q. And does this indicate that Professor Merritt -- I'm sorry, looking at the second line, indicate that Professor Lazarus was providing students in poly sci 870 with Chapter 8 of Cox and McCubbins "Legislative Leviathan"?

A. Yes.

Q. And if you look at the second page, that Professor Lazarus in the spring of 2008 was providing those students in that same class with Chapters 5 and 7 of "Legislative Leviathan"?

A. Yes.

(Plaintiffs' Exhibit No. 63 was marked for identification by the reporter.)

BY MR. LARSON:

Q. Mark this as Plaintiffs' 63. This is a document that was produced by plaintiffs in discovery with the Bates numbers Sage, S-A-G-E, 0011029.

MR. ASKEW: What was that again?

MR. LARSON: Sage 0011029 to 30.

BY MR. LARSON:

Q. Mr. Palmour, again, do you recognize this as the printout of the same search screen that we saw in previous e-mails?

A. Yes.

Q. I'm sorry, in previous documents. And this is a search for the word Dluhy, D-L-U-H-Y?

A. Yes.

Q. Does this indicate that Professor Emshoff was providing students in psyc 8200 in the fall of 2007 with Chapters 2 and 7 of "Changing The System" by M. Dluhy --

A. Yes.

Q. -- by Sage Publications. I think we actually have just -- I think it's another copy of the same page. Okay.

Mark 64.

(Plaintiffs' Exhibit No. 64 was marked for identification by the reporter.)

BY MR. LARSON:

Q. Again I'll represent that this was a document produced by plaintiffs in the litigation Bates number Sage, S-A-G-E, 0011031 to 34. And again this was printout that plaintiffs created from the Georgia State EReserves web site.

Can you tell me what is represented on this document, Mr. Palmour?

A. This is a list of the documents in the class AL 8961 for spring of 2007 for Professor Belcher.

Q. And can you just confirm for me Professor Belcher provided students, if you look at the first entry, with a PDF of Chapter 6 from the "Handbook Of Qualitative Research", chapter by Lincoln and Guba called "Paradynamic Controversies"?

A. Yes.

Q. And looking down three entries below that, Chapter 17 from the same handbook by Barbara Tedlock called "Ethnographic and Representation"?

A. Yes.

Q. Turning to -- looking at the bottom entry which carries over to the next page of the printout, that students were also provided with Robert E. Stake's "Case Studies" from the Sage "Handbook Of Qualitative Research"?

A. Yes.

Q. And going down to week five that they were provided with Chapter 24 called "The Interview" --

A. Yes.

Q. -- from the "Handbook Of Qualitative Research" by Fontana and Frey?

A. Right.

Q. If you could just wait until I have it all spit out before you respond, that would be helpful.

A. Okay.

Q. Thank you.

If you go down to week 12 on page 3. Does this reflect that Professor Belcher provided students in the class with a PDF of a chapter called "Grounded Theory Objective As To Constructive Methods" from the "Handbook Of Qualitative Research"?

A. Yes.

Q. And going down to week 14, she provided them with a chapter called "Data Management And Analysis Methods" from the "Handbook Of Qualitative Research"?

A. Yes.

Q. All right. You can put that one aside.

(Plaintiffs' Exhibit No. 65 was marked for identification by the reporter.)

BY MR. LARSON:

Q. I'll represent to you this is another document produced by plaintiffs in the litigation created by printing out a web site from the GSU EReserve system, Bates number on this is Sage 0011035 to 38.

Mr. Palmour, do you recognize this as the

result of a search for the term "Narrative Inquiry"?
A. Yes.
Q. Does this reveal that Professor Esposito provided students in EPRS 8500 in the fall of 2007 with chapter by Susan Chase called "Narrative Inquiry" from the Sage "Handbook Of Qualitative Research"?
A. Yes.
Q. And going to the next page that Professor Kaufmann provided students with a chapter, same chapter, pages 651 for 679 to students in EPS 8500?
A. Yes.
Q. If you go to the third page I will represent that this is the result of a separate search entered into the system by the plaintiffs for the term "freeing ourselves". You see that?
A. Yes.
Q. Does the entry at the bottom of the page indicate that Professor Kaufmann provided students in EPS 8500 with a chapter from R. Bishop called "Freeing Ourselves From Neocolonial Domination And Research" from the Sage "Handbook Of Qualitative Research"?
A. Yes.
(Plaintiffs' Exhibit No. 66 was marked for identification by the reporter.)

BY MR. LARSON:

Q. And this is a similar document produced by plaintiffs in the litigation. Bates number on this is Sage 0011039 to 148.

My apologies if there's some duplication here. But it might be easier to just read through rather than trying to pick out the nonrepeats.

Do you recognize this as search results for the phrase "Sage handbook"?

A. Yes.

Q. And does this reflect the fact, looking at the first entry, that Professor Esposito provided students in EPRS 8500 with Susan Chase's chapter "Narrative Inquiry" from the Sage "Handbook Of Qualitative Research"?

A. Yes.

Q. And if you flip to page 3, Professor Kaufmann provided the same Chase chapter to students in EPS 8500?

A. Yes. And.

Q. And does it reflect that Professor Esposito provided students in EPS 8500 with a chapter by Kincheoloe and McLaren entitled "Rethinking Critical Theory And Qualitative Research" in the Sage handbook?

A. What page are you on?

Q. I'm sorry. I'm looking at the entry that starts on page 1 and carries over to page 2.

A. Yes, it does.

Q. Does it reflect the fact on page 2 looking at the middle entry that Professor Kaufmann provided students in EPRS 8510 with Richardsons' "Writing Is A Method Of Inquiry" from the Sage handbook?

A. Yes.

Q. And that Professor Kaufmann provided that same chapter in the bottom entry to students in EPS 8500?

A. Yes.

Q. All right. If you go to next page.

MR. ASKEW: Let's wait just a second. 8510 is talking about pages 959 through 978 and page -- and 8500 looks like it's referring to pages 9523 through 9548. Is that right? Am I reading this correctly? This is for Kaufmann on the second page.

MR. LARSON: Yeah, yeah, it does appear the page range -- let me limit my question to the middle entry.

BY MR. LARSON:

Q. Well, actually I'll just strike the last question I asked with respect to the lower entry.

Just recognizing that the page range is different than the one above, does this indicate, Mr. Palmour, that Professor Kaufmann provided students in EPS 8500 with a document identified at least here as "Writing Is A Method Of Inquiry" by Richardson from the Sage "Handbook Of Qualitative Research"?

A. Yes.

Q. Looking at the next page, that Professor Kaufmann from that same course, EPS 8500, provided students with Smith and Hodkinson relative -- chapter called "Relativism, Criteria In Politics" from the Sage handbook?

A. Yes.

Q. And skipping down to the bottom entry starting at the bottom of that page that Professor Kaufmann provided students with J. Beverley's chapter called "Testimonio Subalternity, and Narrative Authority" to students in EPS 8500?

A. Yes.

Q. And the chapter, looking at the next entry, a chapter by R. Stack "Qualitative Case Studies" from the Sage handbook?

A. Yes.

Q. And again that's the students in EPS 8500 in the fall of 2007?

A. Yes.

Q. And looking at the next entry, a chapter by

Kay Plummer called "Critical Humanism And Queer Theory, Living With The Tensions" from the Sage handbook?

A. Yes.

Q. Okay. And looking at the next page, the last entry does this reveal that Professor Kaufmann provided students in EPS 8500 with R. Bishop's chapter called "Freeing Ourselves from Neocolonial Domination And Research" from the Sage handbook?

A. Yes.

Q. Put that one aside. Let's mark Plaintiffs' 67.

(Plaintiffs' Exhibit No. 67
was marked for identification
by the reporter.)

BY MR. LARSON:

Q. Mr. Palmour, this is another printout of some search results run by the plaintiffs on the GSU EReserve system and produced in this litigation. Bates number for this one is CUP --

MR. ASKEW: OUP?

MR. LARSON: CUP0015760 to 64.

BY MR. LARSON:

Q. And I'll represent to you that this was a printout of search results for the term "competition".

If you could turn to in the third page of the printout, look at the second entry. Does this entry -- do you see where it says Professor Reimann?

A. Yes.

Q. Does this entry reflect that Professor Reimann in the fall of 2007 provided students in poly sci 4255 with pages 31 to 63 of Ethan Scheiner's "Democracy Without Competition"?

A. Yes.

(Plaintiffs' Exhibit No. 68 was marked for identification by the reporter.)

BY MR. LARSON:

Q. This is Plaintiffs' 68.

This is a printout from the GSU EReserve system provided by plaintiffs in this litigation Bates number CUP 0015765 through 68. It's a printout of the search results from the system when "Cambridge" was entered.

If you look at page two of this printout, please.

A. Okay.

Q. Okay. You see the two lines for Professor Downs?

A. Yes.

Q. Do those reveal that Professor Downs provided students in poly sci 8200 with Chapter 2 and Chapter 1 of Theda Skocpol's "States And Social Revolutions"?

A. Yes.

Q. Skocpol, that's S-K-O-C-P-O-L.

You can put that one aside.

(Plaintiffs' Exhibit No. 69 was marked for identification by the reporter.)

BY MR. LARSON:

Q. Plaintiffs' 69. This is a printout from the GSU EReserve system produced by plaintiffs in the litigation, Bates number CUP0015792 to 95. Reveals the results of the search term "Cambridge" being entered into the EReserve system.

And again, Mr. Palmour, you recognize this as the same search interface as the previous e-mails, correct?

A. Yes.

Q. You see the entry in the first page for Professor Belcher?

A. Yes.

Q. Does that reflect the fact that Professor Belcher provided students in AL 8900 in the fall of 2007 with Chapter 10 of "Focus On The Language Classroom" by Allwright and Bailey?

A. Yes.

Q. And if you turn to the last page of the printout, second to the last entry, does it reveal that she provided students in that same class with Chapter 9 of the same book?

A. Yes. Yes.

Q. Okay. And does this reveal -- quickly. If you look at the report in total that Professor Murphy and Professor Moran and Professor Snell -- I'm sorry, strike that.

Does it reveal that Professors Murphy and Moran provided students in AL 900 with those same two chapters?

A. I see one of them but I don't see where it's called Chapter 9.

Q. That's what I get for trying to do it quickly. So the -- let's do it this way.

The second entry on the page shows that Professor Murphy provided students with Chapter 9 of "Focus On The Language Classroom"?

A. Yes.

Q. Correct?

A. Yes.

Q. And the second entry on the second page shows that Professor Moran provided students in AL 8900 with

Chapter 10, correct?

A. Yes.

(Plaintiffs' Exhibit No. 70
was marked for identification
by the reporter.)

BY MR. LARSON:

Q. So Mr. Palmour, do you recognize -- this is another printout produced by plaintiffs in this litigation printed out from the GSU EReserve system after entering search terms into the search interface. This document is Bates numbered OUP0011930 to 51.

You see that this is the results of a search for the terms "Oxford"?

A. Yes.

Q. If you turn to the third page. Do you see here that this -- last two entries reveal Professors Gray and Kruger provided students in EPY 7090 during the fall 2007 semester with pages 181 to 199 of "Awakening Children's Minds" by L. E. Berk?

A. Yes.

Q. The last entry on the next page reveals that Professor Lederberg provided students with the same chapter or same portion in EPY 7090?

A. Yes.

Q. And if you turn the page you see there are --

this is the results of a separate search completed by plaintiffs or a printout of a separate search also searching on the term "Oxford".

To clarify the record, this was -- it was a single search but this is the next set of documents that were returned, the next set of 10 hits.

Do you see the first entry there for Professor Dixon?

A. Yes.

Q. Does that show that Professor Dixon was providing students in AAS 4030 with Chapter 4 from Blassingame's "Slave Family" during the fall 2007 semester?

A. Yes.

Q. Skip to -- skip forward to the ninth page of the printout. The first entry on the page is for Instructor Lederberg.

A. Yes.

Q. You see that?

A. Yes.

Q. Does that entry show that Professor -- that and the following entry show Professors Lederberg and Kruger provided students in EPY 7090 with pages 200 and 219 to the book "Awakening Children's Minds" by L. E. Berk?

A. Yes.
Q. And if you go to the next entry on the next page, that Professor Gray provided that same excerpt to students in EPY 7090?
A. Yes.
Q. Put that one away.
(Plaintiffs' Exhibit No. 71 was marked for identification by the reporter.)
BY MR. LARSON:
Q. And this will be the last one, 71.
This also is a document produced by plaintiffs in the litigation, the Bates number is CUP0015769 to 91. And again this is a printout of search results from the EReserve system searching for the term "Cambridge UNIVERS".
Mr. Palmour, if you turn to the second page of this printout and look at the bottom two entries. Do those reveal that Professor Bunting during the fall 2007 semester was providing students in AL 8660 with chapters from a book called "Materials Development And Language Teaching" by D. Jolly and R. Bolitho in one case and by G. Fox in another?
A. Yes.
Q. Okay. And those chapters were pages 90 to 115

and pages 25 to 43?
A. Yes.
Q. If you go down to the next page down at --
MR. ASKEW: Wait just a second. Wait just a second. These aren't the same.
We're trying to sort this out. I don't have the one you're looking at.
MR. LARSON: Does the one you have -- now, let's confirm start with A Rains on the first page and then on the second page the top heading is for J. Richards?
MR. ASKEW: No. This one starts with Pickering, second page is Pickering. Oh, the title is Rains, yes. The second page -- title of the work. Okay.
BY MR. LARSON:
Q. I think we're set then. So just let me start the question over.
Look at page 2, there's an entry for Bunting in the middle. Does that reveal, Mr. Palmour, that Professor Bunting was providing students in AL 8660 in the fall 2007 with a chapter by Jolly and Bolitho called "The Framework For Materials Writing"?
A. Yes.
Q. And that's in a book called "Materials

Development And Language Teaching"?

A. Yes.

Q. Pages 90 to 115?

A. Yes.

Q. And the next entry Professor Bunting was also providing those students with a chapter from the same book called "Using Corpus Data In The Classroom" by G. Fox?

A. Yes.

Q. Turn to the next page and go to the last line. Does that reveal that Professor Bunting was also providing students in that same class with a chapter from the same book by P. Prowse called "How Writers Write, Testimony From Authors"?

A. Yes.

Q. Go to the next page. Does this reveal that -- looking at the last two entries -- one second.

Looking at the last entry on the page, does it reveal that Professor Murphy provided students with Chapter 9 from Allwright and Bailey's "Focus On The Language Classroom" in the fall 2007 version of AL 8900?

A. Yes.

Q. Okay. And if you go to two pages along where there's -- the first entry is for an Instructor Snell?

A. Yes.

Q. Does that show the Professor Snell also provided Chapter 9 to students in AL 8900 during the fall 2007?

A. Yes.

Q. And going forward two more pages, that Professor --

Going forward two pages it begins with an entry by Professor Snell. Does it show Professor Snell provided students the same class 8900 with the Chapter 10 of the Allwright and Bailey book?

A. Yes.

Q. Skip down two lines. Does that show Professor Moran provided students in AL 8900 in fall 2007 with Chapter 9 of the Allwright and Bailey book?

A. Yes.

MR. LARSON: You can put that away. That's all I have.

MR. ASKEW: What's that?

MR. LARSON: I said that's all I have.

MR. ASKEW: Okay. Let us take a break for a second.

MR. LARSON: Sure.

THE VIDEOGRAPHER: Off the record at 4:15:09.

(Brief recess.)

THE VIDEOGRAPHER: Back on the record at 4:32:18.

EXAMINATION

BY MR. ASKEW:

Q. Mr. Palmour, Mr. Larson has shown you a series of printouts from the EReserve system that have been marked as Exhibit 60 through Exhibit 71 that he's reported that his clients printed by accessing the EReserve system.

My question to you is that other than for that period of time in which there was a bug in the software -- other than for that time in which there was a bug in the software system, were there any instances in which the public could access this EReserve report or these EReserve reports such as shown in Exhibits 60 through 71 and be able to further enter the system and have access to these PDF materials that are shown as having been selected by the professors for scanning and being made available to the students in the educational environment?

A. No. The public would not have access to those PDF files.

Q. Those files are simply reported and identified in this report. And what you were doing for Mr. Larson was simply reading the report and indicating to him as to what this report reflected as being listed as an item that a professor had selected for being made available to the students in the educational environment, but that material would not be available to the public?

A. That's correct.

Q. The public would be able to see what was being made available, but they wouldn't have access to the material itself?

A. That's correct.

MR. ASKEW: I have no further questions of the witness.

MR. LARSON: Nothing further for me, either.

THE VIDEOGRAPHER: Off the record at 4:34:35

(Deposition concluded at 4:34 p.m.)

E R R A T A   S H E E T

I, the undersigned, James Palmour, do hereby certify that I have read the foregoing deposition and that, to the best of my knowledge, said deposition is true and accurate (with the exception of the following corrections listed below).

PAGE / LINE CORRECTION
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NOTARY PUBLIC   SIGNATURE

DATE--------------

MY COMMISSION EXPIRES:

C E R T I F I C A T E

G E O R G I A:

FULTON COUNTY:

I hereby certify that the foregoing deposition was taken down, as stated in the caption, and the questions and the answers thereto were reduced to printing under my direction; that the preceding pages represent a true and correct transcript, to the best of my ability, of the evidence given by said witness upon said hearing. And I further certify that I am not of kin or counsel to the parties to the case; am not in the regular employ of counsel for any of said parties; nor am I in anywise interested in the result of said case.

This, the 28th day of April, 2009.

Teresa Bishop, RPR, RMR

CCR No. B-307

My commission expires 11-21-11.

DISCLOSURE

STATE OF GEORGIA
COUNTY OF DEKALB

Deposition of James Palmour

Pursuant to Article 10.B of the Rules and Regulations of the Board of court Reporting of the Judicial Council of Georgia, I make the following disclosure:

I am a Georgia Certified Court Reporter. I am here as a representative of Shugart & Bishop.

I am not disqualified for a relationship of interest under the provisions of O.C.G.A. 9-11-28.

Shugart & Bishop was contacted by the offices of Weil Gotshall & Manges to provide court reporting services for this deposition.

Shugart & Bishop will not be taking this deposition under any contract that is prohibited by O.C.G.A. 15-14-37 (a) and (b).

Shugart & Bishop has no exclusive contract to provide reporting services with any party to the case, any counsel in the case, or any reporter or reporting agency from whom a referral might have been made to cover this deposition.

Shugart & Bishop will charge its usual and customary rates to all parties in the case, and a financial discount will not be given to any party to this litigation.

Teresa Bishop
RPR, RMR, CCR B-307